

# **Request for Qualifications**

## **Consulting Services for the City of San Diego Strong Mayor Form of Government Transition Process**

**City of San Diego  
City Manager's Office  
1200 Third Avenue, Suite 1700  
San Diego, CA 92101**

**Deadline for Submittal:  
Friday, February 11, 2005  
No later than 2:00 p.m.**

Prepared by:

Beth A. Murray  
Assistant to the City Manager

January 28, 2005

## **1.0 BACKGROUND**

On November 2, 2004, the City of San Diego voters approved Proposition F. The passage of this proposition will result in a significant change to the City's form of government. In accordance with the language of Proposition F, certain provisions of the City Charter will be suspended and new provisions enacted, all to create a Strong Mayor form of government for a trial period beginning January 1, 2006, and ending December 31, 2010. Attachment A includes the full text of Proposition F, as it appeared on the ballot.

The new form of government will be different from the present form of government in many substantive aspects. For example, the Mayor becomes the City's Chief Executive Officer and will assume the authority and responsibility currently held by the City Manager. The Mayor will no longer be a member of the City Council and will be in charge of running the day-to-day affairs of the City. The Mayor will be responsible for preparing the annual budget for the Council's consideration and adoption. Under the new system, the City Council will select a Presiding Officer of the Council and can choose new committees. The Council will also appoint an Independent Budget Analyst to review and provide budget information to the Council, independent from the Mayor. Attachment B contains a detailed summary of the Strong Mayor form of government and outlines the more substantive changes that will occur once the new system is in place.

## **2.0 INTRODUCTION**

The City of San Diego is issuing a Request for Qualifications ("RFQ") for consulting services to assist in the Strong Mayor Form of Governance Transition Process. Accordingly, the City of San Diego is inviting consultants to respond to this RFQ. Included in this RFQ is a draft scope of services and tasks and other information describing this potential opportunity.

All questions pertaining to this RFQ shall be directed to Beth A. Murray, Assistant to the City Manager, at 619-236-6720. The due date and time for this RFQ is Friday, February 11, 2005 at 2:00 p.m.

## **3.0 ESTIMATED BUDGET RANGE AND TIMELINE**

The estimated budget for the completion of this project is between \$100,000 and \$150,000, though the City of San Diego is not obligated to spend the entire amount on one selected consultant. The actual amount paid to the consultant will vary depending on the final scope of each task assigned. The City of San Diego may choose to select more than one consultant for the project.

The project has an accelerated timeline due to the fact that input on certain issues is needed prior to the City's fiscal year budget discussions. Final reports and findings will be due by May 2005.

#### **4.0 OBJECTIVES AND GOALS**

The objective of this RFQ is to collect information to assist in the transition planning process as the City changes from the Manager-Council form of government to the Mayor-Council form of government. The City's primary goals are to:

- (a) Identify the best organizational models used by other cities with a Strong Mayor form of government, for both the Executive branch and the Legislative branch;
- (b) Maximize public input during this information collection process; and
- (c) Make recommendations as to which of these organizational models would work best for the City of San Diego.

#### **5.0 SCOPE OF SERVICES/TASKS**

The City of San Diego is seeking qualified consultants to provide a range of potential services. Listed below are sample tasks. The list does not define the scope of work for the entire project – it simply provides examples of the types of tasks that the City of San Diego may request of qualified consultants. Specific tasks will be identified and contracted out on an as-needed basis.

- (a) Research leading cities with a Mayor-Council (Strong Mayor) form of government;
- (b) Identify best models for the creation of the new Office of Independent Budget Analyst and the benefits and costs of leading approaches;
- (c) Present leading models for restructuring the Legislative branch of city government; for example
  - How should the new City Council revise its current committee structure? Should they duplicate the current system without the Mayor or should they consider adding or subtracting committees? How do other Strong-Mayor Western cities organize their committees?
- (d) Present leading models for restructuring the Executive branch of city government; for example
  - What is the relationship between the Mayor, the Mayor's Chief of Staff, the Manager and the Department Directors? Could the Chief of Staff and Manager be combined into one function?
- (e) Present examples of comparable cities that have recently undergone successful transitions;
- (f) Conduct interviews with San Diego city officials (current and past), and other local stakeholders who could offer helpful insights; and

- (g) Identify the roles of the Mayor, City Council, City Attorney, City Manager, Department Directors, City employees and the public during the transition process.

## **6.0 RFQ SUBMITTAL AND REQUESTED INFORMATION**

Submittals should include:

- (a) Introduction: provide a brief letter of introduction on the consultant's letterhead transmitting all RFQ information;
- (b) Experience: provide a profile of experiences that consultant has, including the consultant's experience with similar projects;
- (c) References: provide information and references on public sector work relating to organizational transition processes;
- (d) Proposed Fees and Costs: provide a listing of fees for members of the consulting team who would be involved in the project, including any support personnel. Also, please include a statement of willingness (or unwillingness) to undertake designated tasks for a flat fee for the project, i.e. "all inclusive" fee for all services.
- (e) Submit four (4) copies of your proposal to:

Beth A. Murray  
Assistant to the City Manager  
City of San Diego  
1200 Third Avenue, Suite 1700  
San Diego, CA 92101

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The City of San Diego will evaluate the responses based on the qualifications, background, experience, and apparent reasonableness of the consultant's fee structure. The City of San Diego retains the right to negotiate the final proposed fee schedule, prior to recommending any respondent to the Mayor and City Council for a contract award.

## **7.0 SELECTION PROCESS**

The City of San Diego will conduct a formal selection process to determine the best qualified consulting team to the City's needs, as follows:

- (a) The City of San Diego shall call for a RFQ from all interested and qualified consultants;
- (b) The selection committee shall screen and rate all RFQ's submitted. Ratings shall be based on the following criteria (among others):
  - Professional qualifications of the consultant;
  - Experience on projects of similar size and scope;
  - Capability of the consultant to deliver timely and high quality services;
  - Reference checks on previous projects; and
  - Professional fee schedule.
- (c) The selection committee will select the best qualified consultants that will be invited for interviews;
- (d) The selection committee will invite the top rated consultants for an interview;
- (e) The selection committee will select and rate the consultants in each category where professional services are desired; and
- (f) The highest rated consultants will enter into contract negotiations with the City of San Diego. When services and fees are agreed upon, the selected consultant will be recommended to the Mayor and City Council for approval. If negotiations are not successful, then the City will enter into negotiations with the next rated consultant or consultants until an agreement for services and fees acceptable to the City and consultant are reached.

This RFQ does not commit the City of San Diego to pay for any direct and/or indirect costs incurred in the preparation and presentation of a response. All finalists shall pay their own costs incurred in preparing for, traveling to and attending the interviews. The City of San Diego reserves the right to accept or reject this proposal in part, or in its entirety.

### **8.0 Principals and Rejection Statement**

Consultants are advised that the City of San Diego will only deal with the principals or their designated agents with regard to this RFQ. Furthermore, it is to be understood by the principals and their agents that the City is not obligated to accept any proposal or to negotiate with any proposers and the City reserves the right to accept the proposal, which in its sole opinion, will best serve the public interest. Additionally, City reserves the right to negotiate simultaneously with more than one consultant, if in the City's sole opinion, the City believes that simultaneously negotiating with more than one consultant is in the best interests of the City.



## CITY OF SAN DIEGO

### Proposition F

(This proposition will appear on the ballot in the following form.)

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**PROP F** AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING ARTICLE XV TO PROVIDE FOR A STRONG MAYOR FORM OF GOVERNANCE. Shall the City Charter be amended to change from a City Manager structure of government to a Strong Mayor structure of government for a five year trial period starting January 1, 2006?

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This proposition requires approval by a majority (over 50%) of the voters.

**Full text of this proposition  
follows the arguments.**

### CITY ATTORNEY'S IMPARTIAL ANALYSIS

The current San Diego City Charter provides for a Council-Manager form of government. The San Diego City Council is composed of nine members, eight Councilmembers and the Mayor. The Council governs and sets policy for the City. The Mayor is the chief elective officer and the City Manager is the chief executive officer. The City Manager runs the day-to-day affairs of the City and implements Council policy. The Council has no administrative powers. The Council is forbidden by the Charter's non-interference clause from directing the City Manager's employees.

If adopted, this measure would amend the Charter to suspend certain provisions of the Charter to create a Mayor-Council form of government for a five-year trial period, beginning January 1, 2006, and ending December 31, 2010. Voter action would be required to extend or make this change permanent; otherwise after the December 31, 2010, sunset date, all changes implemented by this measure are repealed and all provisions of the Charter suspended by this measure are revived.

Approval of this measure would remove the Mayor from the Council by providing for an eight-member Council. The eight Council Districts would not be affected by this measure. The Mayor would have the authority to give direction to all City officers and employees, except those in departments and offices recognized in the Charter as being independent, such as the Council offices, City Attorney, Personnel, Retirement, and the Ethics Commission. The Mayor retains the power to veto those resolutions and ordinances adopted by the Council establishing policy. The veto power would not extend to matters of internal governance of the Council or to the application of existing municipal rules to specific decisions of the Council, such as the issuance of land use permits. The Mayor would be responsible for preparing the annual budget for the Council's consideration and adoption. The Council would appoint an Independent Budget Analyst to review and provide budget information to the Council, independent from the Mayor. It would take the affirmative vote of five Councilmembers to take any action, and five votes to override any mayoral veto.

The Council would establish its own rules, elect a presiding officer, establish committees, and set the legislative agenda for the City, including establishing procedures for docketing matters in open session. The Mayor, City Attorney, and presiding officer of the Council would jointly set the agenda for closed session meetings, and, when present, the Mayor would preside over those meetings, but the Mayor would have no right to vote.

The Mayor would appoint the City Manager with Council confirmation. The City Manager would serve at the pleasure of the Mayor. The Mayor would appoint the City Auditor and Comptroller, Police Chief, and Fire Chief, subject to Council confirmation. All other managerial department heads formerly under the City Manager would be appointed by the Mayor and serve at the pleasure of the Mayor. As under the current Charter, the Mayor would appoint all other members of City Boards and Commissions, subject to Council confirmation.

### **CITY MANAGER'S FISCAL ANALYSIS**

The financial impact of this ballot measure is not determinable at this time. It would ultimately depend on whether the approved Fiscal Year 2006 budgets for the Mayor's Office and the City Manager's Office would meet the administrative and operating needs of the respective offices to fulfill their revised responsibilities as set forth in the measure.

There may be a fiscal impact related to the establishment of an Office of Independent Budget Analyst. The cost of the establishment of this office will depend on its composition, staffing level, and operational requirements, which have not been determined as yet. Any budgetary adjustments would have to be approved by the Mayor and City Council.

## **ARGUMENT IN FAVOR OF PROPOSITION F**

### **YES ON PROPOSITION F TO MAKE CITY HALL**

More responsive to neighborhood concerns

More accountable to taxpayers

More efficient and effective

### **CITY GOVERNMENT IS OUTDATED**

San Diego's population has increased nearly ten-fold since the current City Manager form of government was created in 1931. The issues City officials grapple with today didn't exist back then. It is time to do what most other major American cities have done, and give voters the power to elect a chief executive who is accountable for how the City is run.

### **MAYOR NEEDS AUTHORITY TO MAKE CHANGES**

Currently, the authority to run the City of San Diego is held by an unelected City Manager. Proposition F ends the buck-passing and finger-pointing. Proposition F gives you the power to elect someone with the authority to make changes.

### **CHECKS AND BALANCES PROTECT TAXPAYERS**

Proposition F includes checks and balances, including an independent Budget Analyst, City Council review of the Mayor's budget and personnel decisions, and Mayoral line-item budget veto to eliminate waste and ensure that limited City resources are used for police, fire and other City priorities.

### **MAKE CITY HALL MORE ACCOUNTABLE TO NEIGHBORHOODS**

Proposition F makes the City's chief executive directly accountable to you and your neighbors to ensure adequate street and sidewalk repair, park maintenance, police and fire response times, water and sewer maintenance and other basic neighborhood services.

### **GIVE VOTERS A CHOICE**

This change has been debated for decades and reviewed by a variety of citizen committees and commissions. Now it's time to give voters a chance to decide. As an additional safeguard, voters will have the choice in five years to make Proposition F permanent, or return to the old City Manager form.

**Endorsed by**  
**San Diego City Fire Fighters**  
**San Diego County Taxpayers Association**

LISA BRIGGS  
Executive Director  
San Diego County Taxpayers Association

RONALD L. SAATHOFF  
President  
San Diego City Firefighters

STEVEN P. ERIE  
Professor of Political Science  
UC San Diego

EDWARD LOPEZ  
San Diego City Schools,  
Board of Education Member, District E

LEON L. WILLIAMS  
Former Member – San Diego City Council  
Former Member – San Diego County Board of Supervisors

## **ARGUMENT AGAINST PROPOSITION F**

### **PROTECT OUR NEIGHBORHOODS FROM SPECIAL INTEREST CONTROL**

Downtown business interests wrote Prop F behind closed doors to give themselves more access and power. Prop F will **NOT** make government more accountable or efficient. Vote NO on Proposition F.

### **KEEP GOVERNMENT ACCOUNTABLE TO YOU**

When you call your Councilmember, you have a right to expect action. Prop F creates political barriers between Councilmembers and city services to prevent them from responding directly to your neighborhood concerns.

Prop F decreases government accountability and weakens neighborhoods and communities.

### **STOP BACKROOM DEALS**

Prop F is a last-minute, backroom deal. It's a plan based on city hall politics in Los Angeles and Oakland. For decades, San Diego and other 1<sup>st</sup> rate cities have scored high for efficiency under City Council-Manager governments.

Prop F politics doesn't work in L.A. and it won't work here.

### **PROTECT OUR NEIGHBORHOODS**

Prop F puts the Mayor in charge of behind-closed-door meetings . . . eliminates the Mayor's obligation to attend public hearings . . . and allows a majority Council vote to be overruled by one person.

Prop F is a power grab by inside players who would drain public services away from our neighborhoods to subsidize powerful developers.

**THAT IS WHY NEIGHBORHOOD AND COMMUNITY LEADERS, AND EVEN MANY WHO WOULD OTHERWISE SUPPORT A THOUGHTFUL AND REASONABLE REFORM PLAN, OPPOSE PROPOSITION F.**

### **YOU CAN STOP THE SPECIAL INTERESTS. VOTE NO ON PROP F.**

- **Vote No** because Prop F would REDUCE accountability of your elected officials.
- **Vote No** because Prop F would reward downtown interests at the expense of our neighborhoods.
- **Vote No** because Prop F would make it harder for the City Council to clean up an out-of-control bureaucracy.

**KEEP CITY HALL ACCOUNTABLE TO OUR NEIGHBORHOODS. PLEASE JOIN US IN VOTING NO ON PROP F.**

DONNA FRYE  
San Diego City Councilmember

BILL FARRAR  
President, San Diego Police Officers Assn

JERRY SANDERS  
Former Chief of Police

SOL PRICE  
Businessman – Founder of Price Club

NORMA DAMASHEK  
League of Women Voters San Diego

## PROPOSED CHARTER AMENDMENT

(The portions of the charter to be added are underlined.)

### **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, 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.

#### **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:
- |                      |  |
|----------------------|--|
| <u>Section 12(a)</u> | <u>The Council [superseded by section 270]</u>   |
| <u>Section 13</u>    | <u>Meetings Of The Council [superseded by section 270]</u>   |
| <u>Section 16</u>    | <u>Introduction And Passage Of Ordinances And Resolutions [superseded by sections 275, 280, 285, and 290]</u>                          |
| <u>Section 17</u>    | <u>When Ordinances And Resolutions Take Effect; Emergency Measures [superseded by section 295]</u>                                     |
| <u>Section 22</u>    | <u>Interference By Individual Members Of Council With Administrative Service Prohibited [superseded by sections 270(g) and 270(h)]</u> |
| <u>Section 24</u>    | <u>Mayor [superseded by section 265]</u>   |
| <u>Section 25</u>    | <u>Deputy Mayor [superseded by section 265]</u>  |
| <u>Section 27</u>    | <u>The City Manager [superseded by sections 260 and 265]</u>   |
- (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.

#### **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;
- (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 section 39, sole authority to appoint the City Auditor and Comptroller, subject to Council confirmation;
- (11) Notwithstanding contrary language in Charter sections 30, 39, 57 or 58, authority to dismiss the City Auditor and Comptroller, 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;
- (12) As provided for in Charter sections 41 and 43, the authority to appoint members of City boards, commissions, and committees, subject to Council confirmation;
- (13) 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;
- (14) 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
- (15) To propose a budget to Council and make it available for public review, no later than April 15.
- (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 a regular municipal or statewide election scheduled to be held within ninety 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 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 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, 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 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) The Council shall have the right to establish an Office of Independent Budget Analyst to be managed and controlled by the Independent Budget Analyst. The Council shall appoint this independent officer who shall serve at the pleasure of the Council and may be removed from Office by the Council at any time. The Council shall determine the powers of this Office and its manager by ordinance.
- (g) 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.
- (h) 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.
- (i) 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 275: Introduction and Passage of Ordinances and Resolutions**

- (a) Ordinances shall be introduced in the Council only in written form. An alteration necessary only to correct a typographical or clerical error or omission may be performed by the City Clerk with the written approval and concurrence of the City Attorney, so long as the alteration does not materially or substantially alter the contents, requirements, rights, responsibilities, conditions, or prescriptions contained in the original text of the ordinance. A typographical or clerical error shall include, but is not limited to, incorrect spelling, grammar, numbering, punctuation, transposed words or numbers, and duplicate words or numbers.
- (b) 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.
- (c) The following ordinances may be passed by the Council on the day of their introduction: ordinances making the annual tax levy; the annual appropriation ordinance; ordinances calling or relating to elections; ordinances recommended by the Mayor or 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 295 of this Charter. Other ordinances, however, shall be passed by the Council only after twelve calendar days have elapsed from the day of their introduction.
- (d) Each ordinance shall be read in full prior to passage unless such reading is dispensed with by a vote of five members of the Council, and a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.
- (e) The yeas and nays shall be taken upon the Council's passage of all resolutions and ordinances and entered upon the journal of the proceedings of the Council.
- (f) 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 initiative shall be "Be it ordained by the People of the City of San Diego."

**Section 280: Approval or Veto of Council Actions by Mayor**

- (a) The Mayor shall have veto power over all resolutions and ordinances passed by Council with the following exceptions:
  - (1) The Mayor's veto power shall not extend to matters that are exclusively within the purview of Council, such as selection of the Independent Budget Analyst, the selection of a presiding officer, or the establishment of other rules or policies of governance exclusive to the Council and not affecting the administrative service of the City under the control of the Mayor.
  - (2) The Mayor's veto power shall not extend to those matters where the Council has acted as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented.
  - (3) Emergency Ordinances.
  - (4) The Annual Appropriation Ordinance.
  - (5) The Salary Ordinance, which instead shall be subject to veto in accordance with the process described in section 290.
- (b) Matters that are not subject to the Mayor's veto power shall be clearly indicated as such on the Council's agenda and within the body of the resolution or ordinance, which, pursuant to section 40, shall be signed as to form and legality by the City Attorney.
- (c) The following shall apply to each resolution and ordinance that has been passed by the Council and is subject to the Mayor's veto:
  - (1) Each such resolution or ordinance shall, within forty-eight hours of passage, be transmitted to the Mayor by the City Clerk with appropriate notations of the action taken by the Council.
  - (2) The Mayor shall act upon each resolution or ordinance within ten business days of receiving the City Clerk's transmittal.
  - (3) The Mayor shall either approve the resolution or ordinance by signing and returning it to the City Clerk within the specified time limit, or shall veto any resolution or ordinance and return it to the City Clerk with his or her written objections within the specified time limit.
  - (4) Failure to return the resolution or ordinance within the specified time limit shall constitute approval and such resolution or ordinance shall take effect without the Mayor's signed approval. The City Clerk shall note this fact on the official copy of such resolution or ordinance.

**Section 285: Enactment Over Veto**

The Council shall reconsider any resolution or ordinance vetoed by the Mayor. 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 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 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 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.
- (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.

**Section 295: When Resolutions and Ordinances Take Effect; Emergency Measures**

- (a) In the case of a resolution or ordinance for which the Mayor has veto power:
  - (1) The date of approval by the Mayor pursuant to section 280(c) shall be deemed the date of its final passage.
  - (2) If the time for approval or veto by the Mayor has expired and no action has been taken by the Mayor, the date of expiration of that time shall be deemed the date of its final passage.
  - (3) If a resolution or ordinance is adopted by Council overriding the Mayor's veto, then the date of Council's override vote shall be deemed the date of final passage.
- (b) In the case of a resolution or ordinance for which the Mayor has no veto power, the date of passage by the Council shall be deemed the date of its final passage.
- (c) Resolutions shall become effective immediately upon their final passage, unless otherwise stated therein.
- (d) 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 calendar days from the date of their final passage. Ordinances adopted by vote of the electors shall take effect at the time indicated therein or the date the final canvass is issued by the County Registrar of Voters, whichever occurs later.

- (e) 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 six 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 emergency by the Council except as defined in this section, and it is the intention of this Charter that the courts shall strictly construe compliance with such definition.

## **CITY ATTORNEY SUMMARY OF STRONG MAYOR FORM OF GOVERNMENT**

### *Overview*

On November 2, 2004, over fifty percent of the City of San Diego's voters voting at the election approved Proposition F. The passage of this proposition will result in a significant change to the City's form of government. In accordance with the language of Proposition F, certain provisions of the City Charter will be suspended and new provisions enacted, all to create a Strong Mayor form of government for a trial period beginning January 1, 2006, and ending December 31, 2010. The following summary is not intended to be an in-depth analysis of all of the Strong Mayor provisions, but instead to provide a broad overview of the changes to City government that will result from the passage of this measure.

The new form of government will be different from the present form of government in many substantive aspects. The current San Diego City Charter provides for a Council-Manager form of government. This form of government has also been referred to as the "City Manager form of government" because the City Manager serves as the City's Chief Executive Officer. Under our current form of government, the San Diego City Council, which is composed of nine members, eight Councilmembers and the Mayor, governs and sets policy for the City. The City Council's policies, rules, and decisions are implemented by the City Manager, who runs the day-to-day affairs of the City. The City Charter provides the City Council with no administrative powers, and prevents the Council from directing the actions of the employees under the control of the City Manager.

Under the new form of government, which is also referred to as a Mayor-Council form of government, the Mayor will no longer be a member of the City Council. There will be an eight-member City Council. The affirmative vote of at least five Councilmembers will be required to pass most legislation. The boundaries of the eight Council Districts will not be affected. The Mayor will become the City's Chief Executive Officer and will assume much of the authority and responsibility currently held by the City Manager. The Mayor will be in charge of running the day-to-day affairs of the City. The Mayor will have the authority to give direction to all City officers and employees, except those in departments and offices recognized in the City Charter as being independent, such as the Council offices, City Attorney, Personnel, Retirement, and the Ethics Commission.

### ***Mayoral Appointments***

Under the City's Strong Mayor form of government, the Mayor will appoint the City Manager with Council confirmation. The City Manager will serve at the pleasure of the Mayor and may be removed from office at the sole discretion of the Mayor. The Mayor will appoint the City Auditor and Comptroller, Police Chief, and Fire Chief, subject to City Council confirmation, but any dismissal by the Mayor could be overturned by the City Council. All other managerial department heads formerly under the City Manager will be appointed by the Mayor and serve at the pleasure of the Mayor. As under the current Charter, the Mayor will appoint the members of the City's boards and commissions, subject to City Council confirmation, unless controlling law vests the power of appointment with the City Council or a City Official other than the Mayor. The City Council retains the right to establish advisory boards and citizen committees as provided for under Charter section 43.

### ***Office of the Independent Budget Analyst***

The City Council will appoint an Independent Budget Analyst to review the annual budget prepared by the Mayor, provide independent budget information to the City Council, and manage and control an Office of Independent Budget Analyst. The Council will determine the powers of this office by ordinance. The Independent Budget Analyst will serve at the pleasure of the Council and may be removed from office by the Council at any time. The amendments to the City Charter require that the Mayor cooperate fully with the Office of Independent Budget Analyst by supplying it with information concerning the budget process and fiscal condition of the City.

### ***City Council Meetings***

Presently, the Mayor sets the agenda for City Council meetings, presides over the meetings, and makes appointments to Council committees. Under the Strong Mayor form of government, the Council will elect a presiding officer, establish its own committees, and set the legislative agenda for the City. The Mayor may make recommendations to the City Council concerning the affairs of the City, but will no longer have control of the legislative docket. The Council's presiding officer will conduct the open session meetings of the Council. The Mayor will have the right to attend and be heard at these meetings, but will not be entitled to vote, even in the case of a tie vote amongst Councilmembers.

The Mayor, City Attorney, and presiding officer of the City Council will jointly set the agenda for closed session meetings. The Mayor, when present, will preside over closed session meetings, but will not have a right to vote.

### ***Mayor's Veto Power***

Under the new form of government, the Mayor will have the power to veto most resolutions and ordinances adopted by the Council. This veto power, however, will not extend to matters that are exclusive to the conduct of the City Council and do not affect the Mayor's control of the City's administrative service. For example, the Mayor's veto power does not apply to the procedures under which the City Council governs itself, such as the selection of its presiding officer, or to the City Council's selection of the Independent Budget Analyst. The mayoral veto will not apply to emergency ordinances, the Annual Appropriation Ordinance, or matters where the Council has made a legal finding after conducting a public hearing and considering evidence, such as the issuance of land use permits. Matters that are not subject to the Mayor's veto power will be clearly indicated as such on the Council's agenda and within the body of the applicable resolution or ordinance.

When the City Council adopts a resolution or ordinance that is subject to the Mayor's veto, the City Clerk will send it to the Mayor within forty-eight hours of passage. The Mayor has ten business days to act on the resolution or ordinance. Within that period of time, the Mayor can either approve the resolution or ordinance by signing and returning it to the City Clerk, or veto it and return it to the City Clerk with written objections. If the Mayor takes no action within the ten day period, the resolution or ordinance is deemed to be approved, even without the Mayor's signed approval.

The City Council must reconsider any vetoed resolution or ordinance. In general, it takes the affirmative vote of five Councilmembers to take legislative action, and five votes to override any mayoral veto. If the Charter requires more than five votes for the passage of a resolution or ordinance, the larger number of votes will be required to override the Mayor's veto. If a vetoed resolution or ordinance does not receive sufficient votes to override the Mayor's veto within thirty calendar days of the veto, the resolution or ordinance will be deemed disapproved and will have no legal effect.

### ***City Budget***

Under the City's new form of government, the Mayor will be responsible for preparing the annual budget for the City Council's consideration and adoption. The Mayor must propose the budget and make it available for public review no later than April 15. The Council will hold a minimum of two public hearings to consider the budget submitted by the Mayor. Prior to June 15, and after at least two such public hearings have been held, the Council will be required to pass a resolution that either approves or modifies the budget submitted by the Mayor. The Council's modifications may call for adding new items or increasing or decreasing any item.

If the budget is modified by the Council, it will be returned to the Mayor, who will, within five business days, approve, veto, or modify any line item approved by the

Council. The Council shall thereafter have five business days to override any vetoes or modifications made by the Mayor. Any item in the proposed budget that was vetoed or otherwise modified by the Mayor will remain as vetoed or modified unless overridden by the vote of at least five members of the City 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 City Charter's balanced budget requirements.

Once the City Council approves the budget, either as originally proposed by the Mayor or after consideration of any Mayoral vetoes or modifications, it shall become a controlling document for preparation of the Annual Appropriation Ordinance for the next fiscal year.

### ***Salary Ordinance***

Under the provisions governing the City's Strong Mayor form of government, the Mayor will propose a Salary Ordinance establishing the salaries of all City officers and employees. Every year, by April 15, the City Council will introduce the Salary Ordinance. After the ordinance is introduced at a City Council meeting, it will be submitted to the Mayor, who will have five business days to either approve the ordinance or veto some or all of its provisions. The Council will then have ten business days to override any veto and pass the Salary Ordinance as introduced, or to accept the changes proposed by the Mayor and pass the ordinance at a second reading with the changes proposed by the Mayor. The Salary Ordinance passed by Council will become a controlling document for the preparation of the City's Annual Appropriation Ordinance for the next fiscal year.

### ***Mayoral Vacancy***

The City Charter changes implemented by the passage of Proposition F include language relating to filling the Office of Mayor in the event of a vacancy. Under the current language of the City Charter, the City Council has the authority to fill such a vacancy by appointing a successor within thirty days. If the City Council fails to make such an appointment within thirty days, the Council must immediately call for an election to fill the vacancy.

Under the new form of government, the City Council must appoint a successor if there is one year or less remaining in the Mayor's term, and must call an election if there is more than one year remaining. During the period of time when an appointment or election is pending to fill the vacancy, the presiding officer of the City Council will have the authority to supervise any remaining Mayoral staff, to direct and exercise control over the City Manager in managing City affairs, and to exercise any other power or authority vested in the Office of the Mayor when the exercise of such power or authority is required by law. This limited authority does not include the exercise of veto power or

any other discretionary privilege that is enjoyed by an elected or appointed Mayor. A presiding officer acting in this capacity will not lose his or her rights as a member of the Council.

### ***New Rules of the City Council***

The City Council will establish a new set of rules to guide the conduct of its meetings and the organization of its committees. Presently, these rules are set forth as the Permanent Rules of the Council, which are codified in the San Diego Municipal Code. Over the course of 2005, these Permanent Rules will be amended to reflect the new needs and requirements of the City Council as it will exist in the new form of government. Additional changes to other Municipal Code sections will be required to ensure that they are in harmony with the voter-approved changes to the City Charter.

### ***Five Year Trial Basis***

In accordance with Proposition F, several sections of the City Charter will be suspended during the five year trial. These Charter sections, which include those that establish the composition of the City Council, create rules for the passage of resolutions and ordinances, and define the role of the Mayor and Deputy Mayor, will be temporarily replaced with new Charter sections 250 through 295. These new sections will establish the framework for the new form of government discussed above. The suspension of existing Charter sections and the enactment of the new Charter sections are currently set to expire on December 31, 2010. At that time, the suspended sections will automatically be effective once again, new sections 250 through 295 will automatically be deemed repealed, and the City will return to the Council-Manager form of government under which it currently operates, unless the City's voters decide otherwise.

During the five year trial period, the City's voters, by majority vote, could choose to eliminate the expiration of the trial period and have the City operate under the Strong Mayor form of government indefinitely. They could also amend the City Charter to extend the trial period beyond five years or, in the alternative, reduce it to a shorter period. The City's voters can modify any of the language in the Charter that pertains to the implementation of the Strong Mayor form of government. In addition, the Charter can be amended to increase the number of Council districts from eight to nine when the City Council districts are reapportioned after the 2010 national census, thereby reducing the likelihood of tie votes at City Council meetings. Such actions by the City's voters can be accomplished if placed on the ballot by the City Council in accordance with the legislative process outlined above or by the actions of the citizens of the City of San Diego through the initiative process.