



# **ACCOUNTABILITY PLAN OF 2010**

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For Public Input and Dialogue



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CITY OF SACRAMENTO  
CALIFORNIA

July 1, 2010

Dear Citizens,

Enclosed are materials on the Accountability Plan of 2010, a proposal to modernize and reform the City of Sacramento charter. The plan centers around five components:

1. An **elected Mayor as chief executive** with the ability to align city leadership and resources behind a shared vision for the city;
2. An **independent council** with separate legislative and oversight authority;
3. An **ethics ordinance** requirement to ensure strict adherence to codes of conduct and transparency;
4. A **three term limit** for the Mayor or Council Member positions; and
5. A **voter re-approval** provision requiring citizens to confirm the plan at a future date before changes become permanent.

This plan represents the culmination of 18 months of public debate and discussion on how best to modernize our City Charter. Specifically, the plan draws on elements put forth via:

- An initiative supported by over 35,000 citizens to transition to an executive mayor governance form;
- The Charter Review Committee which, through 60 hours of public discussion over seven months, discussed several recommendations included in the plan (e.g. Council-appointed charter officers, limited Mayoral appointment power, ethics provisions);
- Public discussion and analysis at twelve City Council meetings;
- A series of town halls, community meetings, and other events where over 1,500 citizens provided input and feedback; and
- Innumerable contributions by the media and citizens via editorials, op-eds, letters to the editor, blogs, news reports, and other formats.

The enclosed materials represent the latest materials on the plan. The city charter comparison was developed with in consultation with the City Attorney's Office. The draft language was prepared voluntarily by Liane Randolph of Pillsbury Winthrop Shaw Pittman LLP and Professor J. Clark Kelso of McGeorge School of Law as a public service to the City of Sacramento and its residents. Final terms and language will be determined by the Mayor and Council prior to placement on the November 2, 2010 ballot.

Please contact me at [chiefstaff@cityofsacramento.org](mailto:chiefstaff@cityofsacramento.org) or 916-808-5300 with questions or feedback. In addition, our office welcomes requests to present the plan to a particular group or organization.

Sincerely,

A handwritten signature in black ink, appearing to read "Kunal Merchant". The signature is stylized and cursive.

Kunal Merchant  
Mayor's Chief of Staff

## SUMMARY

The Accountability Plan of 2010 centers around five components:

### 1. Executive Mayor

- Mayor is Chief Executive
- Proposes budget
- Appoints/removes City Manager and top leadership
- Limited veto

### 2. Independent Council

- Council President leads Council Meetings
- Approves budget with Independent Budget Analyst\*
- Confirms City Manager and department heads
- Appoints/removes City Clerk, City Attorney, City Treasurer, City Auditor and Independent Budget Analyst
- Overrides Mayoral vetoes
- Ninth council district created in 2012

### 3. Ethics Ordinance

- Require Council to adopt ordinance within six months covering issues such as:
  - Ethics training and education
  - Compliance
  - Whistleblower resources
  - Transparency reforms

### 4. Term Limits

- Maximum of three terms served in Mayor and Council Member positions

### 5. Voter Re-approval

- Effective 60 days after election (January 1, 2011)
- Citizens vote to re-approve between June 2018 and December 2020
- If not re-approved, sunsets on December 31, 2020

\*City Council approved one of the initial charter reform package elements in February 2010 by voting to establish an Independent Budget Analyst Office to provide Council with an objective analysis of the budget.

# CITY CHARTER COMPARISON: CURRENT VS PROPOSED

Below is a summary of proposed changes to the City of Sacramento charter that was prepared by the Mayor's Office in partnership with the City Attorney's Office and shared with the Council and public in May 2010.

	CURRENT CHARTER	PROPOSED PLAN
<b>Executive duties</b>		
Chief Executive Officer selected by	<b>COUNCIL</b>	<b>CITIZENS OF SACRAMENTO</b>
Chief Executive Officer	City Manager	Mayor <sup>1</sup>
State of the City required?	No	Yes. Present annually to public by March 1
Contracting Authority	Council; City Manager per ordinance	Same as current
<b>Council Meetings</b>		
Runs council meetings	Mayor	Council President elected by Council. <sup>2</sup>
Assumes role of Mayor in case of declared vacancy	Vice Mayor	Council President
Mayor's role in open session	Participate <sup>3</sup> and vote	May not participate or vote
Mayor's role in closed session	Participate and vote	May participate, no vote
City Manager's role at Council Meeting	Participate, no vote	Same as current
<b>Appointment Responsibilities</b>		
City Manager	Appoint: Council (5 votes) Remove: Council (6 votes)	Appoint: Mayor w/Council concurrence within 90 days (5 votes) Remove: Mayor
Assistant City Managers and Department Heads	Appoint: City Manager Remove: City Manager	Appoint: Mayor w/Council concurrence within 90 days (5 votes) Remove: Mayor
City Clerk, Treasurer, Attorney, Auditor and Independent Budget Analyst	Appoint: Council (5 votes) Remove: Council (5 votes)	Same as current
Other city employees (unrepresented and represented)	Appointed/removed by appointing authority <sup>4</sup>	Same as current
Boards & Commissions	Appoint: Mayor w/Council concurrence (5 votes) Remove: Council (5 votes)	Same as current
<b>Budget</b>		
Propose and present preliminary budget	City Manager 60 days before fiscal year	Mayor 90 days before fiscal year
Amend and adopt budget	Mayor and Council	Council
Required number of public hearings	One hearing	Two hearings - first within 15 days of proposal
Council deadline to return modified budget to Mayor	N/A	30 days prior to end of current fiscal year
Contingency if budget not adopted on time	Prior budget effective until new budget passed	Same as current
Budget amendments	Same process as for adoption	Same process as for adoption
<b>Veto</b>		
Scope of veto	N/A	Budget and Ordinances only <sup>5</sup>
Mayoral veto timeline	N/A	Veto within 10 days or automatically approved
Council override timeline	N/A	Budget: Override (6 votes) within 10 days Ordinances: Override (6 votes) within 30 days
<b>Term Limits<sup>6</sup></b>		
Maximum terms as Mayor	None	Three terms in lifetime
Maximum terms as Council Member	None	Three terms in lifetime
<b>Ethics Program</b>		
Charter requires Council to adopt ethics ordinance?	No	Yes. Must adopt w/in 180 days of effective date
<b>Voter Re-approval</b>		
Effective Date	N/A	January 1, 2011
Timeframe to place re-approval measure on ballot	N/A	June 2018 – November 2020
Sunset Date if not re-approved	N/A	December 31, 2020
<b>Other Issues</b>		
Residual Powers	Council	Same as current
Ninth City Council Member	N/A	Elected (2012, 2016) based on 2011 redistricting
Minimum votes needed to pass Council item	5 votes	Same as current <sup>7</sup>

<sup>1</sup> City Manager will retain several specific administrative duties laid out in charter, such as sitting on specific boards and commissions.

<sup>2</sup> Council President will be elected by Council, similar to how the Vice Mayor is currently selected. The Council President may be re-elected to successive terms.

<sup>3</sup> "Participate" in this sense means to speak alongside the Council from the dais. The Mayor, as with any other member of the public, would always be able to attend and speak as a citizen.

<sup>4</sup> Currently, the Mayor, Council, City Clerk, City Treasurer, City Attorney, City Auditor and Independent Budget Analyst have appointing authority over their respective staffs.

<sup>5</sup> Budget veto includes line items. Exceptions where Mayor may not veto include: emergency ordinances; ordinances required by state law; election-related ordinances; re-zoning; development agreements; land use decisions/actions; Council budget; and any other matters under the exclusive purview of the Council.

<sup>6</sup> Term limits would impact terms that commence after effective date. Council terms would not count towards future Mayoral service (and vice versa). Full term: >2 years. Partial: ≤ 2 years

<sup>7</sup> Before 9<sup>th</sup> council member added in 2012, 4-4 council votes will not pass, as in other cities.

## CITY CHARTER COMPARISON: SELECTED CITIES

At the June 22, 2010 Council Meeting the City Attorney's Office presented a report comparing the proposed charter changes presented in the Accountability Plan of 2010 with five California cities executive mayor forms of government (Los Angeles, San Diego, San Francisco, Fresno and Oakland) as well as Denver, CO and Seattle, WA. A synopsis of key information presented in the report is provided.

City	Population	City	Population	City	Population
Los Angeles	4,094,764	Fresno	502,303	Denver	598,707
San Diego	1,376,173	Sacramento	486,189	Seattle	598,541
San Francisco	856,095	Oakland	430,666		

	Los Angeles	San Diego	San Francisco	Fresno	Oakland	Denver	Seattle	Sacramento Current	Sacramento Proposed
<b>Executive Duties</b>									
Is the Mayor identified as the city's "Chief Executive Officer?"	Y	Y	Y	Y	N	Y	Y	N	Y
Is the Mayor required to present a State of the City?	Y	Y	N	N	Y	Y	Y	N	Y
Can the Mayor execute contracts?	Y	Y	N	N	N	Y	N	N	N
<b>Council Meetings</b>									
Does a council select a presiding officer (e.g. Council President)?	Y	Y	Y	Y	Y	Y	Y	N	Y
Can the mayor attend and speak at council meetings?	N	Y	Y	N	N	N	N	Y	Y
Can the city manager participate in council meetings?	-	Y	N	Y	Y	-	-	Y	Y
<b>Appointment Responsibilities</b>									
Does the mayor appoint the city manager?	-	Y	Y	Y	Y	-	-	N	Y
Does the mayor have unilateral authority to remove the city manager?	-	Y	N	Y	Y	-	-	N	Y
Does mayor appoint/remove department heads?	Y	Y	N	N	N	Y	Y	N	Y
<b>Budget</b>									
Does the mayor propose the budget?	Y	Y	Y	Y	N	Y	Y	N	Y
<b>Veto</b>									
Can the mayor veto ordinances and the budget?	Y	Y	Y	Y	-	Y	Y	-	Y
How many days does the mayor have to exercise veto?	10	10	10	10	-	5	10	-	10
How many days does council have to override ordinance veto?	45	30	30	30	-	-	30	0	30
<b>Term Limits</b>									
How many terms may the mayor serve?	2	2	2	2	2	3	-	-	3
How many terms may council members serve?	3	2	2	2	-	3	-	-	3
<b>Ethics Program</b>									
Does the charter establish an ethics commission or ordinance?	Y	N	Y	N	Y	Y	N	N	Y
<b>Voter Re-approval</b>									
Time lag before changes become effective	13 mos	14 mos	8 mos	4 yrs	2 mos	-	-	-	2 mos
If a date for voter re-approval was stated, what was the timeframe?	-	4 yrs	-	-	5 yrs	-	-	-	10 yrs

## DRAFT OF PROPOSED CHARTER LANGUAGE

The proposed language below was prepared by Attorney At Law Liane Randolph of Pillsbury Winthrop Shaw Pittman LLP and Professor J. Clark Kelso of McGeorge School of Law. Ms. Randolph and Mr. Kelso voluntarily drafted this language as a public service to advance public discussion on charter reform.

Ms. Randolph is considered an expert on Political Law, providing counsel at the local, state and federal levels. Ms. Randolph served as Chairman of the California Fair Political Practices Commission from 2003 to 2007 and is a former City Attorney for San Leandro and Suisun City. Professor Kelso has worked closely with the leadership in the California Senate and Assembly and within the Judicial and Executive Branches on constitutional amendments, legislation, and rules of court to improve and reform California Judiciary and the administration of justice.

### **Reforming the City of Sacramento's Charter to Establish an Executive Mayor Form of Government**

**Liane Randolph**  
**Attorney, Pillsbury Winthrop Shaw Pittman LLP**  
**&**  
**J. Clark Kelso**  
**Senior Counsel & Professor of Law,**  
**Capital Center for Government Law & Policy**  
**University of the Pacific McGeorge School of Law**

#### **SUMMARY**

Over the course of the last 18 months, a significant amount of local public attention and debate has revolved around potential changes to the City of Sacramento charter to modify our city governance structures to replace the current "Council-Manager" form of government with an "Executive Mayor" or "strong mayor" form of government.

The primary differences between these two forms of government are (1) a greater separation of legislative from executive powers in the Executive Mayor form of government compared to the Council-Manager form of government; and, (2) a reorientation of the Office of the Mayor from service on the city council as one of nine council members to service as the true Chief Executive Officer of the city's bureaucracy and executive leader of the city. The separation of legislative and executive functions and the reorientation of the mayor's office as a chief executive is consistent with recent governance trends in other large cities in California, including Los Angeles, San Diego, San Francisco, Fresno, and Oakland.

Meaningful discussions of city charters and governance structures are infrequent, and the opportunity that is now presented to consider possible improvements in local governance structures should not be missed.

Mayor Kevin Johnson has recently put forward an "Accountability Plan of 2010: Detailed Conceptual Draft." That one-page document, which lists all of the components for a possible charter amendment to establish an Executive Mayor form of government, has been the subject of a very substantial analysis by the City Attorney's Office with a resulting Staff Report dated June 22, 2010.

To assist the Mayor, City Council, interested stakeholders and public in evaluating the pros and cons of the Mayor's Accountability Plan of 2010, we present in this document draft language to amend the Charter of the City of Sacramento to implement the Mayor's plan. In our experience, while a one-page conceptual draft is a necessary starting point for discussion and analysis, it is never sufficient by itself to focus attention on the details. Instead, it is only when specific language has been put on the table that focused issues and concerns can be raised, discussed and possibly resolved.

While we have done our best to account for the many legal concepts and issues that have been raised throughout the public debate, we make no claims to perfection. The Mayor, Council and Charter Officers remain the best and most appropriate individuals to refine and finalize any language put before voters. However, we do believe that our expertise and experience may help our local government leaders in their deliberations.

Finally, we make no specific suggestions about how best to use the language we have provided. Whether it is put to use immediately by the Council to prepare for the November ballot, or filed away to be revisited at a later date, our sole objective has been to assist in completing an important step in the democratic process by presenting a fully fleshed-out proposal reflecting months of public debate and discussion.

## DRAFT OF PROPOSED CHARTER LANGUAGE (CONTINUED)

In the draft which follows, we propose adding a new article, Article XX, to the Charter of the City of Sacramento. The new Article XX would consist of only 10 sections as follows:

- Section 701. Operative Date, Trial Period, Reauthorization by Voters
- Section 702. Integration with Existing Charter
- Section 703. The City Council
- Section 704. The Mayor
- Section 705. Mayoral Approval or Veto of Council Ordinances
- Section 706. Budget
- Section 707. City Manager
- Section 708. Ethics Code
- Section 709. Severability

The new Article XX, if approved by voters, would establish an 8- to 10-year “trial period” during which the City’s governance structures would be modified to implement an Executive Mayor form of governance. At the end of the trial period, voters would be given the opportunity to make Article XX permanent or to reject the Executive Mayor form of governance and repeal Article XX in its entirety. By placing all of the necessary changes in a single new article (instead of sprinkling amendments throughout the Charter), we believe it will be easier to understand exactly what changes are being proposed and, if voters ultimately decide to reject the trial, for the Charter to revert to its existing language and form.

In the pages which follow, we present specific language for each section and include for each section an additional explanatory “comment” to explain the changes being made by the section and how the section relates to other provisions in the article and Charter.

### NEW ARTICLE XX SACRAMENTO GOVERNANCE ACCOUNTABILITY PLAN OF 2010

#### SECTION 700. DECLARATION OF PURPOSE AND INTENT

The City of Sacramento has been governed by a “Council-Manager” form of government since 1921. Under the Council-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 city council appoints a city manager who is responsible for the administration of city government and appointing all heads of city departments.

The purpose of this Article is to modify the existing form of governance for a trial period of time to test implementation of an “Executive Mayor” form of governance. The Executive Mayor form of governance will (1) permit the directly elected mayor to act as chief executive to align city leadership and resources behind a shared vision for the city; and, (2) establish the council as an independent entity with separate legislative and oversight responsibilities.

**COMMENT.** Section 700 states the overall purpose and intent of a new Article XX which would be added to the City of Sacramento Charter. Under the current Charter, the mayor is the titular leader of City government. In reality, however, the mayor is more accurately described as only one of nine City Council members who collectively exercise all of the powers of the City, with most of the executive leadership and control over the City bureaucracy being held by the City Manager who is appointed by and accountable to the entire council. (See Charter, Sections 20, 40 & 61)

As stated in the second paragraph of Section 700, the purpose of this new Article is to separate the council’s and the mayor’s powers and roles so that the council would focus its attention on policy, legislative, and oversight functions while the mayor would focus his or her attention on the typical leadership functions of an organizational chief executive officer.

The separation of functions and reorientation of the mayor’s office as a chief executive is consistent with recent governance trends in other large cities in California. As noted in the City Attorney’s June 22, 2010 “Report Back on Proposed 2010 Strong Mayor Plan” (hereinafter the “Staff Report”), “the structure of government and basic mayoral powers that would be established by the Strong Mayor Plan are generally similar to those of the strong mayor cities’ charters reviewed [i.e., Los Angeles, San Diego, San Francisco, Fresno, Oakland, Denver, and Seattle]” (Staff Report, p. 4).

## DRAFT OF PROPOSED CHARTER LANGUAGE (CONTINUED)

### SECTION 701. OPERATIVE DATE; TRIAL PERIOD; REAUTHORIZATION BY VOTERS

(a) The provisions of this Article shall become operative January 1, 2011.

(b) In order to assess the effectiveness of the Executive Mayor form of governance, the provisions of this Article shall remain in effect until December 31, 2020, at which time this Article shall be automatically repealed and removed from the Charter.

(c) To ensure the people have an opportunity to consider the permanency of this Article before it is automatically repealed, no earlier than the June 5, 2018 election and no later than the November 3, 2020, election, the city council shall place a measure on the ballot to consider amendments to the Charter to make this Article permanent effective January 1, 2021. However, the Council and the people reserve the right to propose amendments to the Charter on or before June 5, 2018 through November 3, 2020, or sooner, to extend, make permanent, shorten or repeal the effective period of this

Article and to consider adjusting the number and terms of Council districts at the time of the next City Council district reapportionment which follows the national decennial census in 2020 to conform with this Article and any amendments thereto.

(d) If the voters do not make the provisions of this Article permanent on or before December 31, 2020, or shorten the operative period or repeal this Article prior to December 31, 2020, at such time as this Article ceases to be operative, the mayor shall become a member of the council, serving as an at-large member.

**COMMENT.** Section 701 sets the effective date for Article XX should it be put on the ballot in November of this year and approved by the voters. It also establishes a mandatory process for the changes made by Article XX to be resubmitted to the voters for reauthorization or sunseting at the end of the coming decade.

In essence, Section 701 creates an 8- to 10-year “trial period” during which the public can evaluate whether the changes made by Article XX have been successful and should be retained, or have been unsuccessful and should be rejected.

Subdivision (d) provides that if Article XX ceases to be operative, the mayor will resume his membership on the city council as an at-large member.

### SECTION 702. INTEGRATION WITH EXISTING CHARTER

The provisions of this Article are intended to and shall be deemed to prevail in their entirety over any conflicting provision of the Charter. This Article shall be interpreted liberally to effectuate the purposes set forth in Section 700.

**COMMENT.** Article XX is designed to establish an 8- to 10-year “trial period” during which the City of Sacramento can evaluate the merits of the new governance structure. To minimize confusion, we decided to place in one new article – Article XX – all of the changes that are necessary to establish an Executive Mayor form of governance. An alternative drafting approach – making changes and edits to scores of sections throughout the Charter – is much more confusing and less transparent.

Section 702 makes sure that the provisions contained in Article XX prevail in their entirety over conflicting provisions elsewhere in the Charter. If there is any doubt about whether there is a conflict or whether a provision within Article XX should prevail, those doubts should be resolved in the way that best effectuates the purpose of the Executive Mayor form of governance as described in Section 700.

### SECTION 703. THE CITY COUNCIL

(a) Except as otherwise provided in this Article or elsewhere in this Charter, all powers of the city shall be vested in the city council.

(b) The legislative body of the city shall be a city council of nine members. Each council member shall be nominated and elected by the electors of the district in which such person resides as provided in Article X.

## DRAFT OF PROPOSED CHARTER LANGUAGE (CONTINUED)

(c) The city is hereby divided into nine council districts, designated First through Ninth Districts, respectively. Council districts in existence upon the effective date of this Article shall continue to exist until altered as provided in Section 24. The Title of the office of each member of the council shall bear the number accorded the district of such member.

(d) The Ninth Council District member shall be elected in the 2012 council election pursuant to section 152. The first full term of office for the newly created Ninth Council District shall commence following the 2012 council election pursuant to section 152. The Ninth Council District elections shall be held on the same schedule as the elections for council districts two, four, six and eight, unless and until such time as this Article is made permanent and the voters adjust the election schedule for the Ninth Council District to conform it with the elections of odd-numbered council districts in Section 152. Between the effective date of this Article and the date the Ninth Council District council member is sworn in, the Council shall consist of eight members. Pursuant to section 30(c), an affirmative vote of five council members shall be necessary to pass any ordinance, resolution or motion.

(e) Each member of the city council shall serve for a term of four years and until a successor qualifies. No member shall serve more than three full terms in office regardless of council district. Any term that commenced prior to the effective date of this Article shall not count towards the term limit. Terms as members of the city council shall not be counted towards the term limit as mayor and terms of office as mayor shall not be counted towards the term limit as a council member. A term of office is four years. A partial term is equal to or less than two years. A partial term shall not be counted as a full term for purposes of the term limit.

(f) Meetings of the city council shall be presided over by a member chosen to serve as the Council President under rules adopted by the city council. The Council President shall serve for a term of one-year and may be re-appointed by the city council to successive terms. The Council President shall be deemed the "Vice Mayor" for purposes of this Charter.

**COMMENT.** Section 703 establishes the city council as the policy making and legislative body for the city, makes changes to the council's composition to reflect the mayor's separation from the council, and creates term limits for service on the council.

Subdivision (a) supersedes Section 20 of the Charter which currently provides that "All powers of the city shall be vested in the city council except as otherwise provided in this Charter." Currently Section 20 vests both legislative and executive powers with the city council. Subdivision (a) is intended to make it clear that the city council's powers are limited as defined in this Article. In particular, executive powers assigned to the mayor by virtue of provisions in this Article, including Sections 704-706, are no longer powers which the city council may exercise. As drafted, subdivision (a) is also intended to ensure that any executive or other powers not provided for by this Article – so-called "residual powers" of government – will remain with the city council.

Subdivision (b) supersedes Section 21 of the Charter which currently provides for the composition of the city council to include the mayor and eight other members. Under subdivision (b), the mayor would no longer be considered a member of the city council, and a new ninth member would be added to the city council.

Subdivision (c) supersedes Section 22 of the Charter. The only change is to increase the number of council districts from eight to nine. Consideration should be given to adding to subdivision (c) the following optional language to deal with the possibility that voters may ultimately reject Article XX after the test period, at which time it would be necessary to reduce the number of council districts from nine to eight: "At the time of the redistricting, the council shall prepare an alternative plan creating eight districts and such plan shall not go into effect unless and until this Article is repealed prior to reapportionment of council districts after the 2020 United State census pursuant to Section 24."

Subdivision (d) sets the time of election for the new ninth council seat and specifies that until a person fills that seat, the council shall function as an eight member body with five votes required for council action.

Subdivision (e) supersedes Section 26 of the Charter. It provides for four-year terms of office for the city council and establishes a lifetime limit of three terms for service on the city council.

Subdivision (f) provides for a "Council President" to be chosen by the city council who would preside over council meetings and serve as the City's "Vice Mayor." In case of a vacancy in the office of the mayor, the Council President would temporarily take on, with specified limits, the executive responsibilities of the mayor's office. See *infra* Section 704(c).

## DRAFT OF PROPOSED CHARTER LANGUAGE (CONTINUED)

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### SECTION 704. THE MAYOR

(a) The mayor shall be the chief executive officer of the City and shall have the power and duty to execute and enforce all laws, ordinances and policies of the City. Except as otherwise provided in this Article, all executive authorities, powers and responsibilities conferred upon the city manager pursuant to Articles V and IX shall be transferred to, assumed and carried out by the mayor. In addition, the mayor

(1) Shall be recognized as the official head of the city for the performance of all duties lawfully delegated to the mayor by this Charter, by action of the council or by other laws;

(2) Shall provide leadership within the community in the sense that the mayor shall have the responsibility of interpreting the policies, programs and needs of city government to the people, and shall annually address the people as to the state of the City no later than March 1 of each calendar year;

(3) Shall have the right and power to make recommendations to the city council on matters of policy and program that require council decisions;

(4) May attend and be heard at any regular, special, or closed session meeting of the council, but may not vote at such meetings;

(5) May propose ordinances and resolutions which shall be considered by the city council;

(6) Shall propose a budget to the council pursuant to Article IX and Section 706, not later than 90 days prior to the commencement of each fiscal year;

(7) May approve or veto ordinances passed by the council pursuant to section 705;

(8) Shall appoint the City Manager subject to confirmation by a majority of the council;

(9) May discipline or remove the City Manager at the pleasure of the mayor;

(10) Shall appoint and may remove members of the boards and commissions and advisory agencies in accordance with Article XV except as otherwise provided in this Charter;

(11) Except as otherwise provided in this Charter, shall appoint all assistant city managers and heads or directors of departments of the city, subject to the concurrence of a majority of the council, with power to discipline and remove such persons at the pleasure of the mayor. The council shall consider all mayoral appointments no later than 90 days after appointment. If the council fails to act on the appointment, the appointment shall be deemed automatically confirmed; and,

(12) May recommend to the council persons for appointment as city officers pursuant to Section 70, but may not vote to appoint such persons or veto the appointment of such persons.

(b) The term of office of mayor shall be four years, and until a successor qualifies. No person shall serve more than three full terms in office. Any term that commenced prior to the effective date of this Article shall not count towards the term limit. Terms as members of the city council shall not be counted towards the term limit as mayor and terms of office as mayor shall not be counted towards the term limit as a council member. A term of office is four years. A partial term is equal to or less than two years. A partial term shall not be counted as a full term for purposes of the term limit.

(c) If a vacancy occurs in the office of mayor, the vacancy shall be filled pursuant to the procedures in section 46 and 154. 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.

## DRAFT OF PROPOSED CHARTER LANGUAGE (CONTINUED)

**COMMENT.** Section 704 supersedes Sections 40, 43, 45 (in part) and 46. In general, Section 704 specifies the executive powers of the mayor, establishes the term of office and provides for the temporary exercise of mayoral powers during any period when the office is vacant.

Subdivision (a) generally establishes the mayor's executive powers and responsibilities as chief executive officer for the city. In addition to the powers expressed in subdivisions (a)(1) through (a)(11), subdivision (a) transfers to the mayor all of the executive powers exercised by the city manager under Articles V and IX of the Charter. This language, combined with Section 707 below, establishes the mayor as the true chief executive officer of the city and converts the city manager into a chief administrative officer who is primarily accountable to the mayor.

Pursuant to subdivisions (a)(4) and (5), the mayor may attend and participate at all council meetings, and propose ordinances and resolutions, but the mayor is not permitted to vote at council meetings. These provisions ensure the separation of powers between the mayor, as chief executive, and the city council, as the city's legislative body.

Pursuant to subdivision (a)(6) and Section 706, the mayor is empowered to submit a budget to the council for its consideration.

The mayor's powers to approve or veto council action is set forth in subdivision (a)(7) and Section 705.

Subdivisions (a)(8) through (a)(11) establish the mayor's powers to appoint, discipline and remove the city manager, members of specified boards, commissions and advisory agencies, assistant city managers, and heads or directors of city departments.

Pursuant to subdivision (a)(12), the mayor may recommend to the council persons to be appointed by the council under Section 70 of the Charter as City Clerk, City Attorney, City Treasurer and such other officers and employees of the council as it deems necessary. The mayor may not vote on or veto the appointment of these officers.

Subdivision (b) establishes the length of term for the office of mayor at 4 years and provides for a lifetime limit of three terms of service as mayor.

Subdivision (c) provides for the transition of the mayor's specified executive powers to the presiding officer of the council during a vacancy in the mayor's office.

### SECTION 705 MAYORAL APPROVAL OR VETO OF COUNCIL ORDINANCES

(a) The mayor shall have veto power over all ordinances passed by the council except as provided for in Section 32(g). The mayor shall have no veto power over matters that are the exclusive purview of the council such as selection of the Council President and rules and procedures for the conduct of council meetings; the Council budget; matters where the council has acted as a quasi-judicial body and where a public hearing was required by law implicating the 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; ordinances required by state law; ordinances fixing the dates of elections; or salary ordinances for the city council or mayor.

(b) Except as otherwise provided in this Charter, each adopted ordinance shall become effective at the expiration of thirty days after adoption and approval by the mayor or the override of a mayoral veto pursuant to this Charter, or at any later date specified therein.

(1) Except as otherwise provided in this Charter, an ordinance adopted by the city council shall be transmitted to the mayor within 48 hours by the City Clerk for the mayor's approval or veto.

(2) The mayor shall have ten (10) days from the date of transmittal by the City Clerk to approve or veto an ordinance. If the mayor fails to act within such period, the ordinance or resolution shall be deemed approved.

(3) If the mayor vetoes an ordinance, the mayor shall state the reasons for such veto which shall be transmitted to the city council by the City Clerk within 48 hours. The city council shall have thirty days from the date of transmittal by the City Clerk to reconsider the ordinance or resolution. If after such reconsideration, at least six council members vote in favor of passage of the ordinance, that ordinance shall become effective notwithstanding the mayor's veto. If the vetoed ordinance does not receive six affirmative votes after reconsideration, the ordinance shall not be approved or enacted and shall have no legal effect.

## DRAFT OF PROPOSED CHARTER LANGUAGE (CONTINUED)

**COMMENT.** Section 705 is a new provision which establishes the mayor's power to approve or veto most ordinances passed by the council. According to subdivision (a), certain types of ordinances are not subject to the mayor's veto, such as ordinances relating to elections and ordinances declared as emergency measures. All other ordinances are subject to mayoral approval or veto. Subdivision (b) specifies the processes by which ordinances are transmitted to the mayor for approval or veto and establishes the process for the council to consider overriding a veto.

### SECTION 706 BUDGET

(a) Each department, office and agency of the city shall provide in the form and at the time directed by the mayor all information required by the mayor to develop a budget conforming to modern budget practices and procedures as well as specific information which may be prescribed by the mayor. The city manager shall assist the mayor in the preparation of the budget. Not later than ninety (90) days prior to the commencement of each fiscal year or such greater period as the council may prescribe, the mayor shall prepare and present to the city council, in such form and manner as it may prescribe, budget recommendations for the next succeeding fiscal year.

(b) The council shall hold a minimum of two public hearings on the proposed budget, the first of which shall occur no later than fifteen (15) days after the mayor's budget resolution is presented to the council. No later than thirty (30) days prior to the end of the fiscal year and after at least two 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. If the council approves the budget resolution as proposed by the mayor, the budget shall become effective immediately. If the council modifies all or part of the budget proposed by the mayor, the budget resolution shall be transmitted to the mayor within 48 hours by the City Clerk. The mayor shall thereafter and within ten (10) days of such transmittal either approve the budget as modified by the council, veto, or modify any line item with such budget as modified by the council. If the mayor approves the budget as modified by the council, the budget shall become effective immediately. If the mayor vetoes or modifies all or any line item within such budget modified by the council, the City Clerk shall transmit the vetoed budget to the council within 48 hours. The council shall thereafter and within ten (10) days of such transmittal reconsider the mayor's vetoed or modified budget. If after such reconsideration, at least six council members vote to override any of the mayor's vetoed or modified budget, the budget shall become effective immediately notwithstanding the mayor's veto or modification. If after reconsideration, the council does not vote to override the mayor's veto or modification, the budget as modified by the mayor shall become effective immediately.

(c) If the city council fails to approve a budget prior to the start of the fiscal year, the appropriations for current operations of the last fiscal year shall be deemed effective until the new budget and appropriation measures are adopted.

(d) The budget may be amended during the fiscal year upon the request of the mayor or the council and approved by the council and mayor pursuant to this section.

(e) The office of independent budget analyst shall hereby exist as a city department whose designated function is to assist the city council in conducting budgetary inquiries and in making budgetary decisions. The independent budget analyst is the administrative head of the department and shall be appointed by majority vote of the city council. The city council may remove the independent budget analyst from office by a majority vote of the members of the city council at any time, with or without cause.

**COMMENT.** Section 706 supersedes Section 111 of the Charter which currently provides that the city manager shall develop a budget. Pursuant to Section 706, the responsibility for preparing a budget is transferred to the mayor. Preparation of a proposed budget is one of the hallmark powers of a chief executive officer of a governmental entity.

Subdivisions (a) and (b) prescribe the process by which the budget is prepared, presented to the council and subject to public hearings. Subdivision (b) also establishes the council's powers to approve or modify the budget proposed by the mayor, the mayor's powers to approve, veto or modify by line-item the council's action on the budget, and the council's ultimate power to override the mayor's veto or budget modifications.

Subdivisions (c) and (d) carry over language from Section 111 providing for a continuing appropriation in the event approval of a budget is delayed and providing for the power to amend the budget during the fiscal year pursuant to Section 706.

Subdivision (e) establishes an "Office of Independent Budget Analyst" to assist the city council in its budget processes.

## DRAFT OF PROPOSED CHARTER LANGUAGE (CONTINUED)

### SECTION 707 CITY MANAGER

(a) There shall be a city manager who shall be appointed by the mayor subject to the concurrence of a majority of the city council. The city manager shall be selected solely on the basis of executive and administrative qualifications. The city manager shall serve at the pleasure of the mayor.

(b) The city manager shall be the administrative officer of the city and shall be responsible for the effective administration of the city government. The city manager shall have the power and it shall be the city manager's duty:

(1) To assist the mayor to insure that all laws and ordinances are enforced;

(2) To administer and exercise supervision and control over all offices, departments and services of the city government under the jurisdiction and control of the mayor;

(3) To act in an advisory capacity to the city council with respect to officials not under the jurisdiction and control of the mayor;

(4) Except as otherwise provided in this Charter, to appoint all subordinate officers and employees with power to discipline and remove any officer or employee so appointed, subject to the civil service provisions of this Charter; provided, further, that all officers and employees of the city appointed by the city manager who are exempt from the rules and regulations of the civil service board pursuant to Charter Section 83 may be suspended or removed at the pleasure of the city manager;

(5) To make such recommendations to the mayor and city council as the city manager shall deem appropriate concerning the operation, affairs and future needs of the city;

(6) To attend all regular, special, or closed session meetings of the city council, except as provided by law, with the right to participate in the discussion of matters pending before the council but without the right to vote on such matters;

(7) To see that all terms or conditions imposed in favor of the city or the people of the city in any contract franchise, lease or permit are faithfully kept and performed; and upon knowledge of any violation thereof to notify the city council of such violation;

(8) When authorized to do so by the provisions of this Charter or by ordinance or resolution, to execute, on behalf of the city all contracts, franchises, leases or permits or any other document requiring the execution of which is required by an officer of the city;

(9) To keep the mayor and city council fully advised as to the operations, financial conditions and needs of the city;

(10) To assist the mayor to prepare the annual budget in accordance with Section 706; and,

(11) To perform such other duties consistent with this Charter as may be prescribed by the mayor.

**COMMENT.** Section 707 supersedes Sections 60 and 61 of the Charter which currently provide for the city manager to be appointed by the city council and specify the city manager's chief executive powers. Pursuant to subdivision (a), the city manager will be appointed by the mayor subject to confirmation by a majority of the council. The city manager will serve at the pleasure of the mayor. Section 704 transferred the city manager's executive powers to the mayor (including the powers set forth in Section 61). Subdivision (b) of this Section sets forth the city manager's remaining administrative duties.

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## DRAFT OF PROPOSED CHARTER LANGUAGE (CONTINUED)

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### SECTION 708. ETHICS CODE

No later than 180 days after adoption of this Article, the city council shall, by resolution or ordinance, adopt a Code of Ethics and Conduct for elected officials and members of appointed boards, commissions, and committees to assure public confidence in the integrity of local government elected and appointed officials.

**COMMENT.** Section 708 requires the city council to adopt a Code of Ethics and Conduct for the city's elected officials and members of appointed boards, commissions and committees within 6 months after adoption of the Article.

### SECTION 709. SEVERABILITY

If any provision of this Article, or the application thereof to any person or circumstances is held invalid, the remainder of this Article, and the application of such provision to other persons or circumstances, shall not be affected thereby.

**COMMENT.** Section 709 is a severability clause which is intended to ensure that if any provision in Article XX is struck down, the remaining provisions in Article XX will still be effective.

## FOR MORE INFORMATION ACCOUNTABILITY PLAN OF 2010

For more information on the Accountability Plan of 2010 visit

**[www.cityofsacramento.org/mayor](http://www.cityofsacramento.org/mayor)**

where the following resources are available:

- Proposed Charter Language
- Frequently Asked Questions
- Chief of Staff Staff Report to Council: Accountability Plan of 2010 (June 22, 2010)
- Chief of Staff PowerPoint Presentation: Accountability Plan of 2010 (June 22, 2010)
- City Attorney's Office Report to Council: A Comparison to Selected Cities (June 22, 2010)
- San Diego City Manager PowerPoint Presentation (June 22, 2010)
- Related Newspaper Articles

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