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## OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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**Date Issued:** October 24, 2007

**IBA Report Number:** 07-103

**City Council Docket Date:** October 22, 2007

**Item Number:** 200

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# City Reserve Policy

## OVERVIEW

Item 200 requests City Council approval of the City Reserve Policy and the establishment of the Appropriated Reserves in the General Fund in the amount of \$7.0 million for Fiscal Year 2008.

The Reserve Policy has been reviewed and discussed by the Budget and Finance Committee on three occasions. This report is provided to describe the most recent revisions made to the policy in response to committee recommendations. The revised Reserve Policy is reflected in the October 12, 2007 memorandum from Chief Operating Officer Jay Goldstone.

## FISCAL/POLICY DISCUSSION

In Report No. 07-90, dated September 20, 2007, the IBA recommended to the Budget and Finance Committee that the:

- 1) City Attorney provide a legal opinion related to the applicability and interpretation of Charter Section 91;
- 2) Appropriation Ordinance be revised to ensure terminology related to reserves is consistent with the proposed policy;
- 3) Definition of Dedicated Reserves be clarified; and
- 4) Appropriated Reserves be funded concurrently with the adoption of the policy to allow for unanticipated expenses during the current fiscal year

At its meeting on September 26, 2007, the Budget and Finance Committee voted 5 to 0 to recommend the proposed Reserve Policy to the full City Council with the following changes/additions:

- 1) that the second sentence on page 5, in the section on Dedicated Reserves, which reads as follows be deleted: “These funds shall automatically carry over to future budget years and not require any further appropriation of funds by the City Council as long as the funds are used for the pre-identified purpose(s).” The Chief Financial Officer is requested to suggest alternative language for the Council’s consideration when it takes up the proposed Reserve Policy; and
- 2) that all recommendations by the Independent Budget Analyst be included in the policy.

### Charter Section 91 Legal Opinion

On September 27, 2007, the Office of the City Attorney provided a legal opinion on Charter Section 91 (attached), which, in part, states:

*“It is concluded herein that charter section 91 establishes a mandatory duty for Council to establish a General Reserve Fund that can only be drawn upon in the event of a public emergency after an affirmative 2/3s vote of the Council. To the extent that the City has cash on hand to cover four months of the fiscal year prior to the receipt of taxes, the charter provision would be satisfied by funding the General Reserve Fund at a fiscally prudent level of 5 to 15% of general fund operating expenditures.”*

The revised Reserve Policy, as reflected in the October 12, 2007 memorandum from Chief Operating Officer Jay Goldstone, establishes **Emergency Reserves**, which would only be used for qualifying emergencies as declared by the Mayor and/or City Council and ultimately approved by the City Council. Approval for expenditures from the Emergency Reserves would require an amendment to the annual Appropriation Ordinance (via ordinance) approved by at least two-thirds of the City Council. The amount of the Emergency Reserves is proposed to reach a minimum of 8% of the General Fund by Fiscal Year 2012, increasing by 0.5% increments from 6.0% at the end of the current fiscal year (Fiscal Year 2008).

This reserve amount is consistent with the Mayor’s Five Year Financial Outlook, and as currently proposed, satisfies the requirements of Charter Section 91, as described by the Office of the City Attorney.

### Appropriated Reserves

The City Council is being asked to appropriate \$7.0 million from the existing Unallocated Reserves to create the **Appropriated Reserves**. The IBA previously recommended the establishment of Appropriated Reserves in the amount of \$10 million, in conjunction with the adoption of the Reserve Policy.

Actions taken already this fiscal year to fund unanticipated expenses from the reserve include:

- \$1,980,000 to fund the settlement agreement with the Chargers Football Club
- \$688,000 for contract amendment for Macias, Gini & O’Connell, LLP

- \$370,000 for contract with Hawkins, Delafield & Wood

Including these amounts with the \$7.0 million Appropriated Reserves results in approximately \$10 million for unanticipated expenses for the full fiscal year. Future requirements for unanticipated expenses that arise during the course of the year would come from the Appropriated Reserves, unless needs arise from emergency circumstances. The expenditure of funds from the Appropriated Reserves would require the adoption of a resolution with a majority vote of the City Council.

### Dedicated Reserves

The revised Reserve Policy reflects changes to the **Dedicated Reserves** definition specifying these are for non-capital projects or activities that take multiple years to fund, and that the City Council may review the Dedicated Reserves annually during the budget process. In previous versions, these reserves were to automatically carryover to future fiscal years without Council review.

### Appropriation Ordinance

The IBA had recommended that the Appropriation Ordinance (AO) should be reviewed to determine if amendments may be needed to include new terms introduced with the Reserve Policy, and to ensure that any excess revenues received would flow to the appropriate reserve.

It is not imperative that changes to the AO be made at the time the Reserve Policy is adopted. Any needed changes could be presented as part of the Mid-Year Budget Adjustments in early 2009, or as part of the Fiscal Year 2009 Appropriation Ordinance, following the budget development process.

## CONCLUSION

Recent revisions to the Reserve Policy incorporated the recommendations made by the IBA and the Budget and Finance Committee. It is possible that the Appropriation Ordinance may need to be amended, or revised, in the future, to ensure consistent use of new terms which have been introduced with the Reserve Policy. The IBA recommends that the City Council adopt the Reserve Policy, and create the Appropriated Reserves in the amount of \$7.0 million for Fiscal Year 2008.

[SIGNED]

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Elaine DuVal  
Fiscal & Policy Analyst

[SIGNED]

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APPROVED: Andrea Tevlin  
Independent Budget Analyst

Attachment: City Attorney Legal Opinion – Charter Section 91