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**APPENDIX**

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**COUNTY, CITY, AND CITY AND COUNTY CHARTERS  
AND CHARTER AMENDMENTS**

**as transmitted by the Secretary of State for inclusion in the official statutes in  
accordance with Section 3, Article XI, of the California Constitution as amended  
by vote of electors on November 5, 1974.**

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**CHARTER AMENDMENTS—1991**

Charter Chapter Number	City—County	Date of Election	Date of Filing
1	County of Alameda .....	Nov. 6, 1990	Dec. 20, 1990
2	City of San Jose .....	Nov. 6, 1990	Dec. 20, 1990
3	City of Petaluma .....	Nov. 8, 1988	Dec. 21, 1990
4	County of San Diego .....	June 5, 1990	Dec. 26, 1990
5	County of San Diego .....	Nov. 6, 1990	Dec. 26, 1990
6	City of Irvine.....	Nov. 6, 1990	Dec. 31, 1990
7	City of Pacific Grove.....	Nov. 6, 1990	Jan. 9, 1991
8	City of Santa Ana .....	Nov. 6, 1990	Jan. 11, 1991
9	City of Stockton .....	Nov. 6, 1990	Dec. 18, 1990
10	City of Anaheim .....	Nov. 6, 1990	Feb. 19, 1991
11	City of Petaluma .....	Nov. 6, 1990	Feb. 19, 1991
12	City of San Deigo .....	Nov. 6, 1990	Feb. 19, 1991
13	City of Monterey .....	March 5, 1991	March 18, 1991
14	City of Alameda.....	March 5, 1991	March 20, 1991
15	City of Redondo Beach.....	March 5, 1991	April 2, 1991
16	City of Anaheim .....	March 5, 1991	April 18, 1991
17	City of Los Angeles .....	April 5, 1991	April 29, 1991
18	City of Modesto .....	Nov. 6, 1990	May 6, 1991
19	City of Pasadena .....	March 5, 1991	June 5, 1991
20	City of Los Angeles .....	June 4, 1991	June 17, 1991
21	City of San Luis Obispo .....	April 9, 1991	July 29, 1991
22	City of Chula Vista .....	Nov. 6, 1990	Aug. 19, 1991
23	City and County of San Francisco	Nov. 5, 1991	Dec. 6, 1991
24	City of Roseville .....	Nov. 5, 1991	Dec. 11, 1991
25	City of Irvine .....	Nov. 5, 1991	Dec. 16, 1991



## Charter Chapter 1—County of Alameda

*Amendments to the Charter of the County of Alameda*

[Filed with the Secretary of State December 20, 1990.]

Section 64 is added to read as follows:

**SECTION 64: WASTE REDUCTION AND RECYCLING****SUBSECTION 64.010: NAME**

This Section of the Alameda County Charter shall be known and may be cited as the Alameda County Waste Reduction and Recycling Act of 1990 (hereinafter the "Act").

**SUBSECTION 64.020: PURPOSE**

The purpose of this Act is to:

A. Provide for an Alameda County Source Reduction and Recycling Plan (hereinafter the "Recycling Plan") in conformance with new state law requiring all California cities and counties to plan, fund and implement a comprehensive source reduction and recycling program (Paragraph 64.040(B));

B. Meet, by January 1, 1995, the state-mandated goal of reducing by at least twenty-five percent the refuse landfilled in Alameda County, then meet by January 1, 2000, the further state-mandated goal of fifty percent, and set longer-term goals starting at seventy-five percent (Paragraph 64.040(A));

C. Ensure that the Recycling Plan provides for at least the following essential elements:

1. An Alameda County-wide Source Reduction Program (Subsection 64.080) to minimize the generation of refuse;

2. Residential Recycling Programs (Subsection 64.090) to provide each Alameda County residence with curbside pick-up of recyclable materials;

3. Commercial Recycling Programs (Subsection 64.100) to reduce the refuse disposal costs of businesses and government agencies;

4. An Alameda County-wide Recycled Product Market Development Program (Subsection 64.110) to create and strengthen stable markets for recycled materials; and

5. A Recycled Product Purchase Preference Program (Subsection 64.120) to further encourage recycled materials markets by maximizing the amount of recycled products purchased by County government agencies;

D. Fund the Recycling Plan by instituting a six dollar per ton surcharge on materials disposed of in Alameda County landfills (Paragraph 64.050(A));

E. Create an Alameda County Source Reduction and Recycling Board (hereinafter the "Recycling Board") to coordinate the Recycling Plan (Subsection 64.130);

F. Prohibit the incineration of refuse within Alameda County (Subsection 64.140).

**SUBSECTION 64.030: FINDINGS**

The people of Alameda County find and declare that:

A. The increasing consumption of single-use and environmentally harmful products depletes natural resources, produces huge quantities of refuse—most of which is disposed of in ways that damage the environment—and, ultimately, will injure future generations;

B. The use of terms such as “garbage” and “solid waste” result from—and serve to reinforce—wasteful attitudes; the materials referred to by these terms retain their value as natural resources, and should instead be described and treated as “discarded materials” to be recycled rather than incinerated or landfilled;

C. At least ninety percent of the discarded materials generated within Alameda County are landfilled as are vast quantities of discarded materials from neighboring counties; existing landfill capacity in the Bay Area will be exhausted in less than twenty-five years, while new landfills are increasingly difficult and expensive to site; landfill is neither a long-term, nor a sustainable, nor an environmentally safe option for disposal of discarded materials;

D. Refuse incinerators are a poor alternative to source reduction and recycling; such incinerators damage the environment by wasting natural resources that could instead be recycled, by accelerating the release of greenhouse gasses—which worsen global warming—and by generating toxic substances;

E. Each person discards materials and should therefore be involved in solving the problems caused by the disposal of such materials; this involvement must include changes in individual behavior resulting from each person’s awareness of her or his role in creating or finding solutions to environmental problems; only through such changes can sustainable consumption and disposal patterns be established and the biosphere restored;

F. The County government shares a responsibility with Alameda County cities and sanitary districts to provide a comprehensive source reduction and recycling program which will foster these necessary changes in individual behavior as well as ensure that the goals set by state law are met; and

G. The best available method for funding the Recycling Plan is a surcharge on materials disposed of at landfills.

**SUBSECTION 64.040: RECYCLING POLICY GOALS AND RECYCLING PLAN**

**A. Recycling Policy Goals:**

1. Consistent with the California Integrated Waste Management Act of 1990 (hereinafter the “CIWMA”), it shall be County policy to reduce, recycle, and compost, by no later than January 1, 1995, at least twenty-five



percent (25%), and by no later than January 1, 2000, at least fifty percent (50%), by weight, of all discarded materials generated within Alameda County.

2. The Recycling Board shall establish, not later than January 1, 1999, a date to reduce, recycle, and compost at least seventy-five percent (75%), by weight, of all discarded materials generated within Alameda County, and, as necessary to the establishment of sustainable discarded materials management practices, shall subsequently establish a date (or dates) to reduce, recycle and compost further quantities of discarded materials.

B. The Recycling Board shall develop, within one (1) year of the effective date of this Act, a plan to establish the recycling programs necessary to meet the recycling policy goals set forth in Subparagraph 64.040(A) (1) (all citations contained in this Act are, unless otherwise noted, to this Act), said plan to be known as the Alameda County Source Reduction and Recycling Plan (Recycling Plan). The Recycling Board subsequently shall amend the Recycling Plan as necessary to meet said recycling policy goals, and as necessary to meet the further recycling policy goals established by the Recycling Board pursuant to Subparagraph 64.040(A) (2). The Recycling Plan shall incorporate all Alameda County recycling programs, whether funded by this Act or not. In developing and amending the Recycling Plan, the Recycling Board shall consult with the Alameda County Board of Supervisors (hereinafter the "Board of Supervisors"), the Alameda County Waste Management Authority (hereinafter the "Authority") and Alameda County municipal governing bodies, and furthermore shall seek to maximize public input as to the contents of the Recycling Plan by holding public hearings and establishing public advisory committees.

C. The Recycling Board shall contract, not more than four (4) years after the effective date of this Act, and then every five (5) years thereafter, for an audit to determine compliance with the Recycling Plan and the degree of progress toward the recycling policy goal then in effect. Said audits shall be conducted by an independent auditor (or auditors) with experience in source reduction and recycling. The reports of said audits shall be completed within one (1) year and issued to each municipality, the Board of Supervisors and the Authority. Said reports shall include at least the following:

1. A narrative and analytical evaluation of all recycling programs within Alameda County, whether funded through this Act or not, both Alameda County-wide and within each municipality;

2. A statistical measure of the progress toward the recycling policy goal then in effect;

3. An evaluation of the Recycling Board's activities, including, but not limited to, an accounting of the monies spent by the Recycling Board; and

4. Recommendations to the Recycling Board, the Board of Supervisors, the Authority and the municipal governing bodies for the maintenance and expansion of recycling programs, and any necessary resulting amendments to the Recycling Plan.

**SUBSECTION 64.050: RECYCLING FUND**

A. Commencing not later than three (3) months after the effective date of this Act, each landfill or incinerator in Alameda County shall collect a surcharge of six dollars (\$6.00) per ton on all refuse accepted for landfilling or incineration at said landfill or incinerator. All monies collected through said surcharge shall be paid by the operators of each landfill or incinerator into a fund, to be known as the Alameda County Recycling Fund (hereinafter the "Recycling Fund"), established for the purpose of receiving and disbursing monies pursuant to this Act. The Board of Supervisors shall ensure the collection of said surcharge, either by modifying the use permits of said landfills and incinerators or by any other necessary means.

B. Should the collection of said surcharge be found to be in violation of an existing contract or agreement to import refuse generated outside of Alameda County for landfilling or incineration within Alameda County, the Board of Supervisors may vote to waive collection of said surcharge for the refuse described within said contract or agreement. However, any future contract or agreement for the importation of refuse for landfilling or incineration within Alameda County, executed or negotiated after the effective date of this Act, shall provide for the collection of said surcharge for the refuse described within said contract or agreement.

C. Any necessary costs of collection of said surcharge incurred by landfill or incinerator operators shall not be subtracted from said surcharge but, consistent with Subsection 64.070, shall be passed through to refuse generators by means of the refuse collection rates set by each municipality.

D. Said surcharge may be adjusted only as follows:

1. The Board of Supervisors may place a ballot measure on the Alameda County ballot for an alternative or additional funding mechanism for the Recycling Fund. Said funding mechanism may levy a surcharge or disposal fee on types of discarded materials. Said ballot measure may also include a provision to adjust said surcharge in direct correlation to the funding resultant from the proposed surcharge or disposal fee.

2. The Authority may pay monies within its jurisdiction to the Recycling Fund with the intent of mitigating said surcharge. Should the Authority vote to do so, the Board of Supervisors shall adjust said surcharge accordingly, provided that no such adjustment shall result in a net loss to the total receipts to the Recycling Fund within a given year.

3. The Board of Supervisors may vote at any time to adjust said surcharge in direct accordance with changes in the Consumer Price Index.

4. Commencing January 1, 1995, and once every five years thereafter, the Board of Supervisors may vote, with the advice of the Authority and/or a double majority of the cities, to pass an ordinance adjusting said surcharge by up to twenty percent (20%). Said ordinance may take effect

immediately, but shall be subject to approval or repeal by a vote of the people at the next regularly scheduled Alameda County election.

5. The Board of Supervisors may vote, with the concurrence of a double majority of the cities, to adjust said surcharge, if either the federal government or the State of California institutes recycling programs that duplicate and fund the recycling programs established by this Act.

E. The Recycling Board shall administer the Recycling Fund in accordance with the provisions of this Act. Recycling Fund monies that are not immediately expended may be temporarily invested, under the direction of the Recycling Board and in accordance with accepted principles of financial management, in financial instruments that encourage, to the extent possible, source reduction and recycling while discouraging non-sustainable uses of natural resources. Any interest or other income resulting from such investments shall accrue to the Recycling Fund.

#### SUBSECTION 64.060: SUPPORT FOR RECYCLING PROGRAMS

A. During the first twenty-seven (27) months after the effective date of this Act, the Recycling Board shall support recycling programs and otherwise fulfill the provisions of this Act by disbursing monies from the Recycling Fund as follows:

1. Eighty percent (80%) of the total shall be apportioned on a per capita basis to municipalities for the planning and implementation of Residential Recycling Programs and/or Commercial Recycling Programs, for new or expanded recycling programs, and for the preparation of the city source reduction and recycling elements, pursuant to the CIWMA. Funds so disbursed shall be used exclusively for supporting municipal recycling programs.

2. Twenty percent (20%) of the total shall be applied to the following:

a. The development and implementation of the Source Reduction Program, the Recycled Product Market Development Program and the Recycled Product Purchase Preference Program;

b. The Recycling Board's expenses for the administration of this Act; and

c. The preparation of the Alameda County source reduction and recycling element, pursuant to the CIWMA.

B. Commencing twenty-eight (28) months after the effective date of this Act, the Recycling Board shall support recycling programs and otherwise fulfill the provisions of this Act by disbursing monies from the Recycling Fund as follows:

1. Fifty percent (50%) shall be disbursed on a per capita basis to municipalities for the continuation and expansion of municipal recycling programs.

2. Ten percent (10%) shall be applied to a grant program for non-profit organizations engaged in maximizing recycling, composting, and reducing waste within Alameda County. The Recycling Board shall

be an organization eligible to receive funds under this Subparagraph, for the purposes of conducting planning, research, and studies directed at furthering the purposes of this Act.

3. Ten percent (10%) shall be applied to the Source Reduction Program.

4. Ten percent (10%) shall be applied to the Recycled Product Market Development Program.

5. Five percent (5%) shall be applied to the Recycled Product Purchase Preference Program.

6. Fifteen percent (15%) shall be disbursed on a discretionary basis by the Recycling Board to support any of the activities described within this Paragraph. A portion of said fifteen percent (15%) may be retained by the Recycling Board to cover the necessary costs of administering the Recycling Fund, provided, however, that said portion shall not exceed three percent (3%) of the total funds paid to the Recycling Fund in a given year.

C. For the purpose of apportionment of funds under the provisions of this Subsection, and for the purpose of sound discarded materials management, the Recycling Board shall cause accurate, reliable, and up-to-date estimates to be maintained of the amounts and kinds of recycling and refuse generation occurring in each municipality. For the purpose of ensuring comparability of data, any composition study or waste characterization study performed with Recycling Fund monies shall comply with standards to be established by the Recycling Board. Said standards shall include, but shall not be limited to, both methodology and categories of discarded materials. In establishing said standards, the Recycling Board should utilize the categories for discarded materials outlined in Paragraph 64.150(O).

D. Contracts using Recycling Fund monies shall be made for periods of not more than five (5) years, except that, upon a finding of the Recycling Board that a longer period is necessary in order to capitalize a specific project, the Recycling Board may vote to allow a particular contract to be made for a period of not more than ten (10) years. No contract using Recycling Fund monies shall provide for an option to renew or any similar provision that would result in the extension of a contract, on a less than fully competitive basis, for a cumulative period of more than five (5) years or, in the case of a contract which the Recycling Board has authorized to be made for a longer period for purposes of capitalization, more than ten (10) years.

E. Nothing in this Act shall prevent any municipality, other jurisdiction, or other organization within Alameda County from raising or expending additional funds or taking other actions in support of recycling programs.

F. Commencing January 1, 1995, the Recycling Board may vote, with the concurrence of the Board of Supervisors and a double majority of the cities, to adjust the distribution of funds under Paragraph 64.060(B) in order to further progress toward the recycling policy goal then in effect.

**SUBSECTION 64.070: MUNICIPAL RATE STRUCTURES**

A. In order to be eligible to receive monies from the Recycling Fund, each municipality must, either by adjusting local refuse collection rates or by instituting a product disposal fee, provide for full reimbursement to its local refuse hauler(s) for the costs of the surcharge established by Paragraph 64.050(A).

B. Upon request of a municipality, the Recycling Board shall cooperate with said municipality, the Alameda County Joint Refuse Rate Review Committee and the refuse hauler(s) serving said municipality to design an incremental refuse collection rate structure which will:

1. Fully reimburse said hauler(s) for the increased costs resulting from the surcharge established by Paragraph 64.050(A);

2. Encourage source reduction and recycling among residents by charging successively higher amounts for each garbage can collected; and

3. Provide residents with the option to use smaller garbage cans at a decreased rate in order to reward source reduction and recycling.

C. Upon request of a municipality, the Recycling Board shall cooperate with said municipality, the Alameda County Joint Refuse Rate Review Committee, and the refuse hauler(s) serving said municipality to design a product disposal fee, to be levied on purchases of products, with emphasis on those products that either are non-recyclable or are environmentally harmful, which will:

1. Allow said municipality to fully reimburse, in lieu of or in addition to an increase in refuse collection rates, said hauler(s) for the increased costs resulting from the surcharge established by Paragraph 64.050(A);

2. Encourage source reduction among residents; and

3. Discourage the purchase of environmentally harmful products.

**SUBSECTION 64.080: SOURCE REDUCTION PROGRAM**

The Recycling Board shall disburse monies allocated in Subparagraphs 64.060(A)(2) and 64.060(B)(3), on a discretionary basis, for the development of an Alameda County-wide Source Reduction Program. Funded components of the Source Reduction Program shall include, but shall not be limited to, the following:

A. A county waste minimization program with a goal of reducing the weight of County purchases, and with a specific goal of reducing the weight of County purchases of paper products by ten percent (10%) by January 1, 1995, and by fifteen percent (15%) by January 1, 2000. Said program shall emphasize the conservation of paper products by means of a comprehensive employee education program. The Recycling Board may establish further goals for reduction in County purchases.

B. An annual non-monetary award program for businesses which demonstrate a significant reduction in the use of packaging materials or the use of materials in manufacturing processes, or waste reduction through the durability and/or recyclability of their products.

C. An industry and/or university program to research and develop source reduction opportunities and incentives.

D. An intensive public education campaign to promote alternative individual consumer habits and in-house source reduction programs for businesses and institutions.

E. Disposal cost reduction studies and waste audit services to demonstrate to businesses and institutions the efficacy of recycling programs.

**SUBSECTION 64.090: RESIDENTIAL RECYCLING PROGRAMS**

Within two (2) years of the initiation of the Recycling Fund, each municipality receiving monies from the Recycling Fund shall provide a Residential Recycling Program to every resident to whom refuse collection service is offered on a regular schedule which is as frequent as said refuse collection. However, it shall not be mandatory to provide said program to residents more than once a week.

**SUBSECTION 64.100: COMMERCIAL RECYCLING PROGRAMS**

Within two (2) years of the initiation of the Recycling Fund, each municipality receiving monies from the Recycling Fund shall make an adequate Commercial Recycling Program available to every business, government, and public or private institution to which refuse collection is offered, on a regular schedule. Municipalities may determine that a Recyclable Materials Recovery Program is an appropriate means of satisfying a part of this requirement.

**SUBSECTION 64.110: RECYCLED PRODUCT MARKET DEVELOPMENT PROGRAM**

The Recycling Board shall disburse monies allocated in Subparagraphs 64.060(A)(2) and 64.060(B)(4) of this Act, on a discretionary basis, for a program to develop and expand markets for recycled products. Funded components of the Recycled Product Market Development Program shall include, but shall not be limited to, the following:

- A. A regional cooperative marketing strategy;
- B. Grants for demonstration projects targeted at new uses of recycled materials and new techniques for recycling materials;
- C. An Alameda County-wide information exchange which targets potential users and sources of recycled products; and
- D. Municipal programs to administer permit assistance to recycling industries.

**SUBSECTION 64.120: RECYCLED PRODUCT PURCHASE PREFERENCE PROGRAM**

A. The County shall purchase Recycled Products where they are comparable in function and equal in cost to products manufactured from virgin materials.

B. The County shall apply, to the extent made possible by the availability of monies under Subparagraphs 64.060(A)(2) and 64.060(B)(5), a price preference of ten percent (10%) to its purchases of Recycled Products where said Recycled Products are comparable in function to products manufactured from virgin materials.

1. Price preferences shall be applied to a full range of recycled product categories, including, but not limited to, recycled paper products, compost and co-compost products, recycled glass, recycled oil, and recycled solvents and paints.

2. The Recycling Board may establish a price preference which is greater than ten percent (10%) for certain recycled product categories, if it is demonstrated that the manufacturing costs for said recycled product categories are higher than the manufacturing costs for similar products produced with virgin materials such that a ten percent (10%) preference is insufficient for said recycled products to be competitive.

3. Commencing January 1, 1995, the Recycling Board may reduce the price preference for certain recycled product categories, if it is demonstrated that the manufacturing costs for said recycled product categories are competitive with the manufacturing costs for similar products produced with virgin materials, and that any such reduction will not result in a substantial decrease in the percentage of recycled products purchased in the category affected by the reduction.

4. Any monies remaining after fulfilling the other requirements of this Paragraph in a given year shall be apportioned by the Recycling Board to municipalities which have established similar price preferences and recycled product specifications.

C. Consistent with Paragraphs 64.120(A) and (B), the County shall modify its purchasing forms and procedures to ensure that, beginning no later than one (1) year after the effective date of this Act, information as to the recycled content, including both postconsumer discards and secondary discards, of all supplies and materials purchased by the County is available and taken into account during the purchasing process. Said information shall also be obtained for the supplies and materials portions of all public works contract bids that are received by the County.

D. Any County agency which has responsibility for drafting or reviewing specifications for procurement items shall be required to revise said specifications, within one (1) year of the effective date of this Act, to eliminate exclusions of recovered materials and requirements that said items be manufactured from virgin materials.

E. To the extent that the practice of accepting bids for multiple products inhibits the purchase of recycled products, the County shall accept bids for individual products and/or bids for fewer products.

F. The Recycling Board may establish standards for a recycled product category which exceed the levels of postconsumer and secondary discard content established by this Act, provided, however, that said standards will not result in a substantial decrease in the percentage of recycled products purchased in said category.

G. Notwithstanding any other provision of this Charter, this Subsection shall apply to the supplies and materials portions of all public works contracts made by the County. The County may set minimum amounts of recycled products, both by quantity and by category, to be utilized in the execution of said contracts; and shall contract separately for the supplies

and materials portions of said contracts where such separate contracting would result in more complete compliance with this Act while not significantly increasing the cost of a given contract, except as allowed by Paragraph 64.120(B).

H. It shall a County policy goal to purchase recycled paper products such that, by January 1, 1995, at least fifty percent (50%) of the total dollar amount of paper products purchased or procured by the County shall be purchased or procured as recycled paper products. Not later than January 1, 1999, the Recycling Board shall recommend to the Board of Supervisors further policy goals for County purchases of all types of recycled products.

#### SUBSECTION 64.130: RECYCLING BOARD

A. The Board of Supervisors and the Authority shall appoint an eleven (11) member board, to be known as the Alameda County Source Reduction and Recycling Board (Recycling Board), to administer this Act as well as to carry out any other tasks consistent with the purposes of this Act that may subsequently be given to the Recycling Board by the voters or the Board of Supervisors.

B. To avoid unnecessary administrative duplication, the Board of Supervisors shall seek the consent of a double majority of the cities for the Recycling Board to serve as the local task force mandated by California Public Resources Code Section 40950 (as enacted by the CIWMA). A failure to obtain such consent shall not be construed to inhibit the establishment of the Recycling Board. In the event that the Recycling Board is not named as said local task force, the Recycling Board shall review any recommendations of a local task force regarding source reduction and recycling.

C. To further avoid unnecessary administrative duplication, the Authority may, within ninety (90) days of the effective date of this Act, accept the Recycling Board as a subsidiary body of the Authority. Should the Authority not so accept the Recycling Board, or if the Authority at any time ceases to exist, the Recycling Board shall be established as a separate entity within the structure of County government. However, notwithstanding an initial failure by the Authority to so accept the Recycling Board, the Board of Supervisors may at any time, upon request of the Authority, make the Recycling Board a subsidiary body of the Authority.

D. Members of the Recycling Board shall be appointed in accordance with the following:

1. The authority may appoint five (5) of its members to sit on the Recycling Board. Should any or all of said five (5) Recycling Board members not be appointed by the Authority within four (4) months of the effective date of this Act, the Board of Supervisors shall cooperate with a double majority of the cities to appoint said member or members, except that a member appointed under such circumstances need not be a member of the Authority, but must be a member of the governing body of a municipality.



2. The Board of Supervisors shall appoint six (6) Alameda County residents to the Recycling Board as follows:

- a. A representative of an organization engaged primarily in operating recycling programs with Alameda County;
- b. A source reduction specialist with substantial experience as such;
- c. A representative of the recyclable materials processing industry;
- d. A representative of the solid waste industry;
- e. A representative of an environmental organization with a significant membership active in recycling issues within Alameda County; and
- f. An environmental educator employed as such on a full-time basis.

3. The membership of the Recycling Board shall reflect expertise in the field of source reduction and recycling.

4. No for-profit corporation, including its divisions, affiliates, parents and subsidiaries, wholly or partially owned, may have more than one (1) employee or representative on the Recycling Board at any one (1) time.

5. All members of the Recycling Board shall be appointed within four (4) months of the effective date of this Act. Members of the Recycling Board shall serve a term of two (2) years, and may be reappointed for one (1) successive term, except that, for the purpose of ensuring continuity in the administration of this Act, the initial terms of two (2) of the members appointed by the Authority and three (3) of the members appointed by the Board of Supervisors shall be one (1) year. Should a Recycling Board member appointed by the Authority cease to be a member of the Authority, or if a Recycling Board member who is a member of the governing body of a municipality should cease to be a member of said governing body, or if a Recycling Board member ceases to be a resident of Alameda County, her or his seat on the Recycling Board shall be immediately deemed to be vacant.

6. Should a Recycling Board member for any reason vacate her or his seat, the governing body (or bodies) that appointed said member shall appoint a new member within two (2) months of the date the seat is vacated, except that if the appointing body is the Authority and the Authority has either ceased to exist or has failed to appoint a new member within said two (2) month period, the Board of Supervisors shall cooperate with a double majority of the cities to make the appointment. All such appointments to the Recycling Board shall otherwise be made in compliance with the requirements that applied to the original appointments.

7. In the event of temporary incapacity or other inability to attend Recycling Board meetings, a Recycling Board member may request that the governing body (or bodies) that appointed said member appoint an interim Recycling Board member to serve, for a period of no more than three (3) months, in the place of said member.

E. The Recycling Board shall schedule and conduct regular meetings at least once each calendar month, and shall schedule special meetings and committee meetings as necessary to the business of the Recycling Board. Regular meetings shall be scheduled with at least one (1) month

advance notice to the public. Special meetings and committee meetings shall be scheduled with at least one (1) week advance notice to the public.

F. Recycling Board members shall attend at least three fourths ( $3/4$ ) of the regular meetings within a given calendar year. At such time as a member has been absent from more than one fourth ( $1/4$ ) of the regular meetings in a calendar year, or from two (2) consecutive such meetings, her or his seat on the Recycling Board shall be considered vacant.

G. Consistent with the principle of maximizing public participation in all Recycling Board activities, the Recycling Board may establish advisory committees and shall provide for full participation of the public in the functions of such bodies.

H. The Recycling Board shall hold its meetings, hearings, public hearings, and other proceedings in such places and at such times as are likely to maximize access to said proceedings by as broad a range of Alameda County residents as is reasonably possible. To this end, the Recycling Board shall hold at least one (1) regularly scheduled evening meeting per year in each supervisorial district in a location accessible by public transit and shall ensure full access to all Recycling Board meetings by the physically disabled.

I. All hearings, meetings, proceedings or other discussions of the Recycling Board, or of any committee or other subsidiary body of the Recycling Board, shall be open to the public, as shall the minutes, records of proceedings or documents received or discussed by the Recycling Board or its subsidiary bodies. Access to meetings or documents of the Recycling Board may be restricted only in circumstances authorized by those provisions of the Ralph M. Brown Act (California Government Code Sections 54950 et seq.), or of the California Public Records Act (California Government Code Sections 6250 et seq.), or of any successor legislation to either said Act, relating to actual or imminent litigation or to evaluation of an employee of the Recycling Board. No such restriction shall be lawful unless it is first justified in the relevant written notice of meeting by specific identification of the actual or anticipated litigant or by specific identification of the position of the Recycling Board employee to be evaluated. All Recycling Board documents shall be made available for copying by members of the public for the direct cost of the copies only, not to exceed a limit of ten (10) cents per page. Said limit may be adjusted by the Recycling Board in direct proportion to the Consumer Price Index.

J. The Recycling Board shall formulate rules for its own procedures and other rules as necessary to facilitate the implementation of the provisions of this Act.

K. Each Recycling Board member shall have one (1) vote. A quorum for decisions of the Recycling Board shall be a majority of its members, except that a smaller number may vote to adjourn meetings.

L. The members of the Recycling Board shall elect from their number a chair to be the presiding officer of said Recycling Board. The term of

office of said chair shall be no more than one (1) year and shall expire at the end of the calendar year in which the chair sits.

M. Each Recycling Board member shall receive compensation not to exceed three thousand dollars (\$3,000.00) for one (1) calendar year, not to exceed one hundred dollars (\$100.00) for each regular meeting of the full Recycling Board, or each special meeting or committee meeting of at least two (2) hours duration, which said member has attended.

N. The Recycling Board shall hire such staff as are required to implement the provisions of this Act. Staff salaries and benefits shall be paid out of the monies allocated for the administration of this Act, pursuant to Subparagraphs 64.060(B) (2) and 64.060(C) (6).

O. The Recycling Board may apply for, receive and expend supplementary funding grants from private and public sources.

P. Conflicts of Interest:

1. No Recycling Board member shall participate in any Recycling Board action or attempt to influence any decision or recommendation by any employee of or consultant to the Recycling Board which involves herself or himself, or which involves any entity with which the member is connected as a director, officer, elected official, consultant, or full-time or part-time employee, or in which the member has a direct personal financial interest within the meaning of California Government Code Section 87100, or any successor statute thereto.

2. No Recycling Board member shall participate in any proceeding before any agency of either the County or a municipality as a consultant or in any other capacity on behalf of any solid waste handler, recycling organization, or other person or organization which actively participates in matters before the Recycling Board. Nothing in this Subsection shall be construed to prohibit a representative from a municipality from fully participating in the deliberations of her or his own governing board.

3. For a period of one (1) year after leaving her or his seat on the Recycling Board, a former Recycling Board member shall not act as an agent or attorney for, or otherwise represent, any other person before the Recycling Board by making any formal or informal appearance or by making any oral or written communication to the Recycling Board.

Q. Ex Parte Communications:

1. No Recycling Board member, or person who serves as a consultant or in any other capacity on behalf of a solid waste handler, recycling organization, or other public or private entity which actively participates in matters before the Recycling Board, or other person who intends to influence the decision of a Recycling Board member on a matter before the Recycling Board, excepting a staff member of the Recycling Board acting in her or his official capacity, shall conduct an ex parte communication unless the following steps are taken:

a. The Recycling Board member shall notify the person who engaged in the ex parte communication that a full disclosure of said communication must be entered in the Recycling Board's record; and

b. Either the Recycling Board member or the person who engaged in said communication shall, prior to the next regularly scheduled meeting of the Recycling Board, submit a full written disclosure of said communication which shall be entered in the Recycling Board's official record.

2. For the purposes of this Paragraph, "ex parte communication" shall mean any oral or written communication concerning matters, other than purely procedural issues, under the jurisdiction of the Recycling Board which are subject to a vote of the Recycling Board, but shall not mean any such communication performed before the Recycling Board, or any subsidiary body thereto.

R. Violations of Paragraphs 64.130(P) or (Q) shall be punishable as a misdemeanor.

S. Upon request of any person or on her or his own initiative, the Alameda County District Attorney may file a complaint in Alameda County Superior Court alleging that a Recycling Board member has knowingly violated Paragraphs 64.130(P) or (Q), including the facts upon which said allegation is based, and asking that said Recycling Board member be removed from office. If, after trial, the court finds that the Recycling Board member has knowingly violated either of said Paragraphs, it shall enter a judgement removing said member from office.

T. All documents issued by or in the name of the Recycling Board shall be printed double-sided on recycled paper with the highest post-consumer content available.

#### **SUBSECTION 64.140: PROHIBITION OF INCINERATION**

It shall be unlawful to operate any incinerator within Alameda County. Furthermore, it shall be unlawful to landfill within Alameda County the ash or residue from any incinerator, regardless of the location of said incinerator.

#### **SUBSECTION 64.150: DEFINITIONS**

The following words and phrases used in this Act shall have, for the purposes of interpreting and applying this Act, the following meanings:

A. "Act" shall mean this Section, Section 64 of the Alameda County Charter as enacted by the Alameda County Waste Reduction and Recycling Act of 1990.

B. "Alameda County" shall mean the geographic entity, including both the incorporated and unincorporated areas.

C. "Authority" shall mean the Alameda County Waste Management Authority.

D. "Board of Supervisors" shall mean the Alameda County Board of Supervisors.

E. "Buy-Back Program" shall mean a program to purchase recyclable supplies, materials or goods from the public.

F. "Charter" shall mean the Alameda County Charter as amended by this Act.

G. "CIWMA" shall mean the California Integrated Waste Management Act of 1989, presently codified as California Public Resources Code Sections 40000 et seq.

H. "Commercial Recycling Program" shall mean a program to collect, purchase, receive, process, and/or market discarded materials generated by businesses or institutions, public or private, for the purpose of recycling said discarded materials; and shall include a Recycling Education Program to encourage the participation of said businesses or institutions.

I. "Compostable materials" shall mean nontoxic materials collected for composting, including, but not limited to, plant debris, putrescibles, wood and soils.

J. "Composting" means the controlled biological decomposition of organic materials that are separated from the discarded materials stream.

K. "Composting Program" shall mean a program to collect, purchase, receive, process, and/or market compostable materials, or co-compost said compostable materials with manures, dairy discards, or fish processing discards, with the aim of producing a nontoxic finished product usable as a compost, soil amendment, landfill cover, or potting soil.

L. "Construction and Demolition Debris Recycling Program" shall mean a program to collect, purchase, receive, process, and/or market discarded materials generated in the construction and/or demolition of improvements to real property.

M. "Consumer Price Index" shall mean the index for the San Francisco Bay Area issued by the United States Department of Labor.

N. "County" shall mean the government of Alameda County, including any department, board, commission, agency or duly authorized official thereof.

O. "Discarded materials," "discarded materials supply" and "discards" shall mean materials that a person, business, industry, or institution has delivered to a disposal facility, or has set in or next to a receptacle that is regularly emptied for disposal, or has abandoned in a public place, but shall not be construed to mean materials that must be handled as hazardous or infectious waste; and shall be composed of the following categories:

1. "Chemicals," including, but not limited to, recyclable and/or reusable solvents, paints, motor oil, and lubricants;

2. "Crushables," including, but not limited to, rock, ceramics, concrete, and nonreusable brick;

3. "Glass," including, but not limited to, glass containers and window glass;

4. "Manures," including, but not limited to, sewage sludge that has been dewatered, treated or chemically fixed, and livestock and horse manure;

5. "Metals," both ferrous and nonferrous, including cans, parts from abandoned vehicles, plumbing, fences, metal doors and screens, and any other discarded metal objects;

6. "Paper," including, but not limited to, newsprint, ledger paper, computer paper, corrugated cardboard and mixed paper;

7. "Plant debris," including, but not limited to, leaves, cuttings, and trimmings from trees, shrubs and grass;

8. "Plastics," including, but not limited to, beverage containers, plastic packaging, tires, and plastic cases of consumer goods such as telephones or electronic equipment;

9. "Putrescibles," including, but not limited to, garbage, offal, and animal, fruit and vegetable debris;

10. "Reusable goods," including intact or repairable home or industrial appliances, household goods, and clothing; intact materials in demolition debris, such as lumber or bricks; building materials such as doors, windows, cabinets, and sinks; business supplies and equipment; lighting fixtures; and any other item that can be repaired or used again as is;

11. "Soils," including, but not limited to, excavation soils from barren or developed land, and excess soils from yards;

12. "Textiles," including, but not limited to, nonreusable clothing, upholstery and pieces of fabric; and

13. "Wood," including, but not limited to, nonreusable lumber and pallets.

P. "Disposal facility" shall mean a facility to receive, purchase, process, incinerate and/or landfill discarded materials.

Q. "Double majority of the cities" shall mean a majority of the cities representing a majority of the population in the incorporated areas of Alameda County.

R. "Drop-Off Program" shall mean a program to accept the donation of recyclable materials at a fixed site for the purpose of recycling said materials.

S. "Hazardous waste" shall mean any material defined as hazardous waste by California Health and Safety Code Section 25117, or by any successor statute thereto, but notwithstanding said section or successor statute shall include ash and/or residue from an incinerator.

T. "Incinerator" shall mean a facility that burns, as a means of disposal and/or energy production, refuse, refuse-derived fuel, any material recovered from a mixed supply of discarded materials, any type of plastic, and/or any type of hazardous waste, but shall not mean a facility dedicated to burning infectious waste or potentially infectious waste.

U. "Infectious waste" shall mean any material defined as infectious waste by California Health and Safety Code Section 25117.5, or by any successor statute thereto.

V. "Landfill" shall mean a facility that buries discards as a means of disposal.

W. "Municipal recycling programs" shall mean recycling programs within a municipality, or recycling programs administered as a joint effort between municipalities.

X. "Municipality" shall mean a city or sanitary district located in Alameda County.

Y. "Postconsumer discards" shall mean finished materials which would have been disposed of as discarded materials, having completed their life cycle as consumer items, and does not include manufacturing discards.

Z. "Recyclable Material Recovery Program" shall mean a program to receive, separate, and process mixed discarded materials for the purpose of removing materials which will later be used in the fabrication or manufacture of recycled products.

AA. "Recycle" or "recycling" shall mean a process by which any good, material, supply or other object, which otherwise would be wasted, is recycled, reused, salvaged, or otherwise retrieved, collected, processed and/or marketed for return to use by society, either in its original form or in a new form; but shall not mean, with the exception of compost used for landfill cover, a program for landfilling or incinerating.

BB. "Recycled product" shall mean a product, good, material, or supply, no less than fifty percent (50%) of the total weight of which consists of secondary and postconsumer discards with not less than ten percent (10%) of its total weight consisting of postconsumer discards; or any product, good, material or supply which has been diverted from the supply of discarded materials by refurbishing and marketing said product, good, material or supply without substantial change to its original form.

CC. "Recycled Product Market Development Program" shall mean a program to create or improve markets for recycled products, including, but not limited to, one that facilitates the exchange of information between potential sources and users of recycled products; supports the development of techniques, systems, and practices of incorporating recycled materials into finished products; encourages enterprises that use recycled materials in place of non-recycled materials; and/or assists in the establishment of cooperative arrangements or organizations for marketing or purchasing recycled products.

DD. "Recycling Board" shall mean the Alameda County Source Reduction and Recycling Board established pursuant to this Act.

EE. "Recycling Education Program" shall mean a program to promote participation in recycling programs and/or disseminate information about the benefits of recycling; and encouraging sound consumption and disposal practices by using language and concepts consistent with achieving a sustainable environment.

FF. "Recycling Fund" shall mean the Alameda County Recycling Fund established pursuant to this Act.

GG. "Recycling Plan" shall mean the Alameda County Recycling Plan established pursuant to this Act.

HH. "Recycling programs" shall mean Buy-Back Programs, Commercial Recycling Programs, Composting Programs, Construction and Demolition Debris Recycling Programs, Drop-Off Programs, Recyclable Material Recovery Programs, Recycled Product Market Development Programs, Recycled Product Purchase Preference Programs, Recycling

Education Programs, Residential Recycling Programs, Salvage Programs, Source Reduction Programs, and/or research and planning to implement any of said programs.

II. "Refuse" shall mean mixed discarded materials that are disposed of by landfilling or incineration, including, but not limited to, discarded materials that have been contaminated and thus rendered non-recyclable during the disposal process, either by being mixed during compaction or by any other process, and discarded products of a manufacturing process which combines natural resources in a manner which renders said resources unrecoverable.

JJ. "Residential Recycling Program" shall mean a program to collect at least three (3) different kinds of materials, from at least two (2) different categories of discarded materials, by means of one (1) or more containers, separate from conventional garbage containers, where said recyclable materials are placed by residents at the curb or an equivalent location; and shall include a Recycling Education Program to encourage the participation of residents.

KK. "Salvage Program" shall mean a program to collect, purchase, receive, process and/or market any fabricated good, material, and/or supply for reuse.

LL. "Secondary discards" shall mean finished products, or fragments of finished products, of a manufacturing process which has converted a resource into a commodity of real economic value, and includes post-consumer discards; but shall not include excess virgin resources of said manufacturing process, such as fibrous wood discards generated during the manufacturing process, including fibers recovered from waste water, trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue.

MM. "Source Reduction Program" shall mean a program that results in a net reduction in the generation of discarded materials, including, but not limited to, a program to reduce the use of non-recyclable materials and hazardous waste; replace disposable materials and products with reusable materials and products; reduce packaging; reduce the amount of plant debris generated; reduce the amount of household hazardous waste generated; establish refuse collection rate structures with incentives to reduce the amount of refuse that generators produce; increase the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials in the manufacturing process; and/or maintain public education programs to accomplish any of these ends; but shall not be construed to include any steps taken after the material is discarded.

NN. "Waste" shall mean discarded materials that have been rendered valueless by being incinerated, buried, contaminated, or otherwise destroyed; or the act of incinerating, burying, contaminating, or otherwise destroying the value of discarded materials.



**SUBSECTION 64.160: EFFECTIVE DATE**

Unless otherwise specified in this Act, the provisions of this Act shall take effect on the date it is accepted for filing by the California Secretary of State.

**SUBSECTION 64.170: EFFECT ON OTHER COUNTY LAWS**

No provision of this Act shall be construed to bar the enforcement of any existing County ordinances or regulations where the subject matter of said ordinances or regulations is wholly or partly the same as that of this Act, or to bar the enactment of any future such County ordinances and regulations. All County ordinances or regulations involving the subject matter of this Act shall be construed to further the purposes of this Act.

**SUBSECTION 64.180: STATUS OF EXISTING CHARTER PROVISIONS**

Any provision of the Alameda County Charter in effect prior to the effective date of this Act which conflicts in any way with any provision of this Act is hereby declared to be amended by implication. No such existing provision of said charter shall be construed to affect the application of any provision of this Act in a manner inconsistent with the purposes of this Act.

**SUBSECTION 64.190: SEVERABILITY**

If any subsection, paragraph, subparagraph, sentence, clause, or word of this Act is held unconstitutional or otherwise invalid, either on its face or as applied, the invalidity of said part or application thereof shall not affect the validity of the other parts of this Act, or the applications thereof; and to that end the parts and applications of this Act shall be deemed severable. It is hereby declared, notwithstanding any finding that a part or application of this Act is unconstitutional or otherwise invalid, that each of the parts of this Act would have been enacted separately.

Certified to be a true copy by Don Perata, Chairman of the Board of Supervisors, and William Mehrwein, Clerk of the Board of Supervisors.

Date of Special Election: November 6, 1990.

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Charter Chapter 2—City of San Jose

***Amendments to the Charter of the City of San Jose***

[Filed with the Secretary of State December 20, 1990.]

Section 204 is added to read as follows:

Section 204. City Government—Ethics.

The citizens of San Jose expect and must receive the highest standard of ethics from all those in the public service. City officers and employees

must be independent, impartial and responsible in the performance of their duties and accountable to the members of the public.

Section 402 is amended to read as follows:

Section 402. Terms of Office.

The terms of all members of the Council holding office, or elected to terms commencing, on January 1, 1979, excepting the Mayor, shall expire on December 31, 1980, notwithstanding any other provision of this Charter. Ten (10) members of the Council, excepting the Mayor, shall be elected by Districts at the general municipal election held in 1980.

If, for any reason, the operation of this Section and of any other Section(s) of this Charter amended together with this Section should be delayed, so that ten (10) Council members are not elected by Districts at the general municipal election held in 1980, then in that event the election of ten (10) Council members by Districts shall commence with the general municipal election to be held in 1982, and all provisions of this Charter as so amended regarding the Council, its members, the terms of office and election of members, excepting the Mayor, or the vote of Council members shall apply as modified only with regard to calendar dates and consistently with the holding of such election in 1982.

Except as provided herein below, the regular term of office of each member of the Council shall be four (4) years. At the first regular meeting of the City Council in January, 1981, the Council shall determine by lot whether the members elected at the general municipal election held in 1980 by the odd-numbered Districts or those elected by the even-numbered Districts shall hold office for a term of two (2) years ending on December 31, 1982; and at the general municipal election held in 1982, members shall be elected for a regular term of four (4) years by those Districts whose members' terms expire on December 31, 1982. Thereafter, members representing both the odd-numbered and even-numbered Districts shall be elected at general municipal elections held in each fourth (4th) year succeeding the year in which members were last elected by such Districts for a regular term of four (4) years. Each member's term shall commence on the first day of January next following, and end on the last day of December in the fourth calendar year succeeding, the date of the member's election.

Subject to other provisions of this Charter, the Mayor, whose term of office as Mayor and member of the Council would expire on December 31, 1982 under the Charter as it existed immediately prior to the effective date of this Section, shall continue to hold office as Mayor and member of the Council until such date. At the general municipal election to be held in the year 1982, and at the general municipal election held in each fourth year succeeding 1982, a person shall be elected to fill the seat of said Mayor for a term of four (4) years, commencing on the first day of January next following, and ending on the last day of December in the fourth calendar year succeeding the date of such person's election.

The effective date of this Section shall be deemed to mean the date this Section as it now reads becomes effective.

No person who has been elected to the City Council as a Council member in any Council District in the City for two (2) successive four-year terms, after the effective date of this Section, shall be eligible to run for election as a member of the Council in any Council District, nor appointed to serve as a Council member for any additional successive term. Any person appointed or elected to the City Council as a City Council member to fill an unexpired term of two years or less in length shall be eligible to serve two successive four-year terms upon the expiration of the unexpired term for which that person was appointed or elected. Any person appointed or elected to the City Council as a City Council member to fill an unexpired term of more than two years in length shall only be eligible to serve one successive four-year term. The above shall not disqualify any person from running for election to the Office of Mayor or for any term or terms which are not successive. The effective date of this Section shall be January 1, 1991.

Section 403 is amended to read as follows:

**Section 403. Elections by Districts.**

For the purpose of electing members of the Council, excepting the Mayor, the City shall be divided into ten (10) numbered Districts as nearly equal in population as practicable. The boundaries of the ten Districts shall be established initially by reference to that certain map of the City of San Jose, entitled "Election Districts of the City of San Jose", filed and displayed in the office of the City Clerk, and drafted according to data contained in the official census of the City as taken in 1975 and certified by the City Clerk. Thereafter the boundaries of such Districts shall be subject to alteration and change under the provisions of this Section.

Following the taking of each federal decennial census, commencing with the 1980 federal decennial census, but no earlier than three (3) months and no later than eight (8) months following receipt by the City Clerk of a written publication containing an enumeration of population by blocks derived from such census, the Council shall by ordinance redistrict the City into ten (10) numbered Districts. Such ordinance shall be adopted according to the provisions of Article VI, Section 604 and shall become effective at the expiration of thirty (30) days after adoption of the ordinance; provided, however, that if such ordinance becomes effective on or after the first day on which nomination papers may be filed for an election to the office of member of the Council, excepting the Mayor, then such ordinance shall not apply, or be deemed to apply, to that election or to the person elected to the office of member at such election.

Within thirty (30) days following receipt by the City Clerk of said written publication containing an enumeration of population by blocks derived from such census, the Council shall appoint an advisory commission whose purpose shall be to study and make appropriate recommendations with respect to such redistricting. Said advisory commission shall consist of one (1) member from each District, who shall be appointed by

the Council member from that District, and a Chairperson chosen from the City at large, who shall be appointed by the Mayor.

Within sixty (60) days following its appointment, said advisory commission shall submit its report and recommendations to the Council and a redistricting review panel. The redistricting review panel shall consist of five members with academic, judicial or non-partisan voter education organization experience chosen from the City at large. The Mayor shall nominate five (5) candidates who shall be appointed to the panel by the Council by vote of not less than two-thirds (2/3rds) of its membership. Within sixty (60) days following receipt of the report and recommendations of the advisory commission, the redistricting review panel shall review the commission's report and recommendations and shall conduct three public hearings on the report and recommendations at various locations in the City and shall issue a report to the Council. The report of the redistricting review panel shall analyze whether the commission's proposed report and recommendations are consistent with the requirements set forth below in this Section for establishing boundaries of the District, provide income diversity to the greatest extent feasible, ensure standards of fairness and achieve access to representation due all citizens under state and federal law. The Council shall duly consider the report and recommendations of the advisory commission and the report of the redistricting review panel in adopting any redistricting ordinance. The Council is required to adopt an ordinance within the period of time required under this Section even if the advisory commission and the redistricting review panel fail to provide recommendations or reports as specified in this Section.

Except as provided hereinabove, such Districts shall be used for all elections of members of the Council, including their recall, and for filling any vacancy in the office of member of the Council, subsequent to the effective date of such ordinance and until new Districts are established. Districts so formed shall be as nearly equal in population as practicable according to such federal decennial census. Any territory heretofore or hereafter annexed to or consolidated with the City but not included within a District shall, prior to or concurrently with completion of the proceedings therefor, be added to an adjacent District or Districts by the Council by ordinance, which shall become effective at the expiration of thirty (30) days after adoption and shall apply to all elections held on and after its effective date.

Any ordinance adopted by the Council and establishing, changing, or altering the boundaries of any District shall describe the new boundaries by reference to a map on file in the office of the City Clerk and/or by a metes-and-bounds description.

In any redistricting, the Council shall make the Districts as nearly equal in population as may be practicable, and may, in establishing the boundaries of the Districts, give consideration to (a) natural boundaries,

street lines and/or City boundaries; (b) geography; (c) cohesiveness, contiguity, integrity and compactness of territory; and (d) community of interests within each District.

Upon any redistricting pursuant to the provisions of this Charter, each incumbent member of the Council will continue, during the remainder of the member's term, to hold office and to represent the District by which the member was elected prior to such redistricting, notwithstanding any provision of Section 404 requiring a member to be a resident of the District represented by such member.

Section 607 is added as follows:

Section 607. Code of Ethics.

The Mayor and City Council shall adopt and maintain a Code of Ethics to provide guidance to City officers and employees in their conduct while discharging their public responsibilities. This Code of Ethics shall include, but not be limited to, ordinances relating to the following areas of regulation:

(a) Limitations on and requirements for reporting of campaign contributions and post-election contributions to candidates for elected City Offices.

(b) Reporting and registration requirements for local government lobbyists who act to influence any governmental action of the City of San Jose.

(c) Limitations on the acceptance of gifts by City officers and employees including elected officers and members of Boards and Commissions.

(d) Limitations on the acceptance of honoraria by City officers including elected officials, Council appointees and members of Boards and Commissions.

(e) Regulations regarding disqualification of former City officers and employees in matters connected with former City duties or official responsibilities.

The Mayor, on a biennial basis beginning in 1993, shall conduct a review of the City's Code of Ethics including any ordinances relating to ethic standards. The Mayor shall make any recommendation for amendments or changes to the Code of Ethics and its implementing ordinances to the City Council.

No amendments or changes shall be adopted which in any way lessen the ethical standard in regulations except by a two-thirds vote of the City Council.

Section 809.1 is added to read as follows:

Section 809.1. Policy Analyst; Power of Appointment.

The Head of the Office of Policy Analysis may appoint and prescribe the duties of persons employed in the Office of Policy Analysis exclusive of clerical. Neither the Council nor any of its members nor the Mayor shall in any manner dictate the appointment or removal of such employees whom the Policy Analyst is empowered to appoint, but the

Council may express its views and fully and freely discuss with the Policy Analyst anything pertaining to the appointment and removal of such persons.

Section 1202 is amended to read as follows:

Section 1202. Submission of Capital Improvement Program; Contents.

At least ninety (90) days prior to the beginning of each fiscal year, or at such earlier time as the Council may specify, the City Manager shall prepare a shall submit to the Council a capital improvement program for the five (5) fiscal years immediately following the fiscal year within which such program is submitted to Council. On or before the day that he submits such program to the Council, the City Manager shall also file a copy of the program with the Planning Commission of the City. Such capital program shall include:

- (a) A clear summary of its contents;
- (b) A list of all capital improvements which are proposed to be undertaken during the five fiscal years immediately following the fiscal year within which such program is submitted to the Council with appropriate supporting information as to the necessity of such improvements;
- (c) Cost estimates, method of financing and recommended time schedules for each such improvement; and
- (d) Such other information as the City Manager may deem desirable.

Section 1203 is amended to read as follows:

Section 1203. Action on Capital Program.

Upon receipt of the copy of the capital improvement program prepared by the City Manager, the Planning Commission shall consider the program and, within sixty (60) days from and after the date a copy of such program was filed with the Commission, shall submit to the Council a written report setting forth its findings and recommendations respecting such program. The Planning Commission, in its report may recommend such additions, deletions or other amendments as it deems desirable. If it should recommend any capital improvements different from or additional to those proposed by the City Manager, it shall set forth, in its report, the estimated cost thereof and the manner in which it proposes that the same shall be financed.

The Council shall fix a time and place for a public hearing on the capital program as submitted by the City Manager and upon such amendments or changes, if any, as shall have been submitted as aforesaid by the Planning Commission within said sixty (60) days, or upon expiration of said sixty (60) days if the Planning Commission shall fail to submit its report within said time. The Council shall cause a notice of such public hearing to be published not less than ten (10) days prior to said hearing by at least one insertion in a newspaper of general circulation in the City. Copies of the capital program as submitted by the City Manager, and copies of such report as may have been submitted by the Commission, shall be filed and available for inspection by the public in the office

of the City Clerk for at least ten (10) days prior to said public hearing. The notice of such public hearing shall state the time and place of hearing and the times and place when and where copies of the capital program as submitted by the City Manager and the report of the Planning Commission will be available for inspection by the public. At the time and place so advertised or at any time or place to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the capital program as submitted by the City Manager, and on the written report of the Planning Commission, at which interested persons desiring to be heard shall be given reasonable opportunity to be heard.

Upon conclusion of such hearing, the Council shall adopt such a capital program, for the five (5) fiscal years covered by the City Manager's proposed capital program with such amendments as it may deem desirable. Upon its adoption and until adoption of a new budget and a new five (5) year capital program, such capital program, as adopted by the Council, shall serve as a general guide to the Council and to the City administration in the planning and scheduling of capital improvements. From time to time, however, the Council may authorize such departures therefrom as it may deem necessary or desirable.

Section 1217 is amended to read as follows:

Section 1217. Bid Requirements.

Except as hereinafter otherwise provided, each purchase of supplies and materials and each purchase of equipment, the expenditure for which exceeds the amount which a general law city of the State of California may legally expend for a "public project" (as defined by State law) without a contract let to a lowest responsible bidder after notice, shall be contracted for and let to the lowest responsible bidder after notice; provided and excepting, however, that in no event need any purchase of supplies and materials or any purchase of equipment, be contracted for or let to a lowest responsible bidder if the expenditure for such supplies and materials, or the expenditure for such equipment, does not exceed Twenty Thousand Dollars (\$20,000.00).

Except as hereinafter otherwise provided, when the expenditure required for a specific "public works project" (hereinafter defined), excluding the cost of any materials, supplies or equipment which City may have acquired or may separately acquire therefor, exceeds the amount which a general law city of the State of California may legally expend for a "public project" (as defined by State law) without a contract let to a lowest responsible bidder after notice, it shall be contracted for and let to the lowest responsible bidder after notice; provided and excepting, however, that in no event need a specific "public works project" be contracted for or let to a lowest responsible bidder if the expenditure for such "public works project", excluding the cost of any materials, supplies or equipment which the City may have acquired or may separately acquire therefor, does not exceed Twenty Thousand Dollars (\$20,000.000).

The notice inviting bids shall set a date for the opening of bids, and shall be published at least once, at least ten (10) days before the date set for opening of bids, in a newspaper of general circulation in the City. All bids, including such bidder's security as may be required, shall be presented under sealed cover. If the successful bidder fails to execute the contract within the time specified in the notice inviting bids or in the specifications referred to therein, the amount of the security required, if any, may be declared forfeited to the City and may be collected and paid into its General Fund, and all bonds so forfeited may be prosecuted and the amount thereof collected and paid into such fund. All bids shall be publicly opened, and the aggregate bid of each bidder declared at a time and place specified in the notice inviting bids. The Council shall have the right to waive any informalities or minor irregularities in bids or bidding.

In its discretion, the Council may reject any or all bids presented. If it rejects all bids, the Council may, in its discretion, readvertise. If two or more bids are the same and the lowest, the Council may accept the one it chooses. If no bids are received, the Council may readvertise, or may acquire the materials, supplies or equipment for which no bids are received, or have the "public works project" for which no bids are received done, without further complying with this Section. If, after rejecting all bids for any supplies, materials or equipment, the Council finds and declares that the bids were excessive, it may have such supplies, materials or equipment purchased at a lower price without further complying with this Section. If, after rejecting all bids for any "public works project" and after readvertising for bids, the Council finds and declares that the bids were excessive, it may have such "public works project" done by City employees without further complying with this Section.

For purposes of this Section, "public works project" shall be deemed to mean and is hereby defined as a project for the construction, erection, improvement or demolition of any public building, street, bridge, drain, ditch, canal, dam, tunnel, sewer, water system, fire alarm system, electrical traffic control system, street lighting system, parking lot, park or playground; provided and excepting that "public works project" shall not be deemed to mean or include the maintenance of any of said things, or any repairs incidental to such maintenance, or the planting, care or maintenance of trees, shrubbery or flowers. Also, the provisions of this Section shall not apply to any of the following: (a) the purchase or acquisition of any supplies, materials or equipment from any public or governmental body or agency or from any public utility which is either publicly owned or is regulated by the Public Utilities Commission of the State of California; (b) the purchase of any supplies, materials, or equipment which can be obtained from only one vendor or manufacturer; (c) any public work done for the City by any public or governmental body or agency; (d) any public work done by any public utility which is either publicly owned or is regulated by the Public Utilities Commission of the State of California where such work involves any



property of such public utility or is otherwise of direct concern to both the city and such public utility; (e) any public work done by a subdivider, developer or owner of real property in connection with the subdivision or development by him of any real property, notwithstanding the fact that such may be subject to entire or partial reimbursement from the City; (f) work involving highly technical or professional skill where the peculiar technical or professional skill or ability of the person selected to do such work is an important factor in his selection; (g) expenditures deemed by the Council to be of urgent necessity for the preservation of life, health or property, provided the same are authorized by resolution of the Council adopted by the affirmative vote of at least eight (8) members of the Council and containing a declaration of the facts constituting the urgency; and (h) situations where solicitation of bids would for any reason be an idle act.

Certified to be a true copy by Tom McEnery, Mayor, and Andrea Membreno, City Clerk.

Date of Municipal Election: November 6, 1990.

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Charter Chapter 3—City of Petaluma

*Amendments to the Charter of the City of Petaluma*

[Filed with the Secretary of State December 21, 1990.]

Section 63.5 of Article IX Finance and Taxation is amended to read as follows:

Section 63.5 Utility Users Tax Prohibited. Neither the City Council of the City of Petaluma nor any of its officers, agents or employees shall levy, impose or collect a tax upon the use in the City of Petaluma by any residential user, business user, industrial user or any other user, of telephone communication services whether intrastate or interstate, electrical energy, gas, water, garbage, cable television or any other use of utilities by residents of Petaluma.

Certified to be a true copy by M. Patricia Hilligoss, Mayor, and Patricia E. Bernard, City Clerk.

Date of Municipal Election: November 8, 1988.

## Charter Chapter 4—County of San Diego

*Amendments to the Charter of the County of San Diego*

[Filed with the Secretary of State December 26, 1990.]

Section 600: Elective Officers. In addition to Supervisors, the elective officers are:

Assessor

Recorder/County Clerk

District Attorney

Members of the Board of Education

Sheriff and

Tax Collector/Treasurer,

each of whom is nominated and elected according to general law.

Section 601: Consolidation of the Offices of Recorder and County Clerk. The Offices of Recorder and County Clerk shall be consolidated at the time specified in Section 601.1, and the duties of the Recorder/County Clerk, including all of the duties now performed by both, shall be performed by one person elected by general law.

Section 601.1: If either the Recorder or the County Clerk vacates office during the 1991–1995 term of office, the consolidation shall take place immediately, and the other officer shall assume the duties of the consolidated office for the remainder of the term for which he or she was elected. If neither one vacates office, a Recorder/County Clerk shall be elected at the general election in 1994 for a four-year term which shall begin at noon on January 2, 1995.

Certified to be a true copy by Leon L. Williams, Chairman of the Board of Supervisors, and Kathryn A. Nelson, Clerk of the Board of Supervisors.

Date of Special Election: June 5, 1990.

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 Charter Chapter 5—County of San Diego
*Amendments to the Charter of the County of San Diego*

[Filed with the Secretary of State December 26, 1990.]

Section 606: CITIZENS LAW ENFORCEMENT REVIEW BOARD.

(a) The Board of Supervisors, by ordinance, shall establish a Citizens Law Enforcement Review Board consisting of not less than nine (9) nor more than fifteen (15) members nominated by the Chief Administrative Officer and appointed by the Board of Supervisors. Members of the

Citizens Law Enforcement Review Board shall serve without compensation for terms not to exceed three years as established by ordinance, and members shall be appointed for not more than two consecutive full terms. County employees and persons employed as peace officers or custodial officers shall not be eligible to be members of the Citizens Law Enforcement Review Board.

(b) Members of the Citizens Law Enforcement Review Board shall serve at the pleasure of the Board of Supervisors, and they may be removed at any time by a majority vote of the Board of Supervisors.

(c) Vacancies on the Citizens Law Enforcement Review Board shall be filled for the balance of the unexpired term in the same manner as the position was originally filled.

(d) The Citizens Law Enforcement Review Board shall have the power to subpoena and require attendance of witnesses and the production of books and papers pertinent to its investigations and to administer oaths.

(e) The Citizens Law Enforcement Review Board may appoint in accordance with its established procedures such personnel as may be authorized by the Board of Supervisors. Notwithstanding any other provision of this Charter, any authorized executive director and investigators of the Citizens Law Enforcement Review Board shall be in the classified or the unclassified service as determined, by ordinance, by the Board of Supervisors.

(f) The Board of Supervisors, by ordinance, shall establish the duties of the Citizens Law Enforcement Review Board and its duties may include the following:

(1) Receive, review and investigate citizen complaints which charge peace officers or custodial officers employed by the Sheriff's Department or the Probation Department with (A) use of excessive force, (B) discrimination or sexual harassment in respect to members of the public, (C) the improper discharge of firearms, (D) illegal search or seizure, (E) false arrest, (F) false reporting, (G) criminal conduct or (H) misconduct. All action complaints shall be in writing and the truth thereof shall be attested under penalty of perjury. "Misconduct" is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a specific citizen by reason of:

1. An alleged violation of any general, standing or special orders or guidelines of the Sheriff's Department or the Probation Department; or
2. An alleged violation of any state or federal law; or
3. Any act otherwise evidencing improper or unbecoming conduct by a peace officer or custodial officer employed by the Sheriff's Department or the Probation Department.

(2) Review and investigate the death of any individual arising out of or in connection with actions of peace officers or custodial officers employed by the Sheriff's Department or the Probation Department, regardless of whether a citizen complaint regarding such death has been filed with the Citizens Law Enforcement Review Board.

(3) Prepare reports, including at least the Sheriff or the Probation Officer as recipients, on the results of any investigations conducted by the Citizens Law Enforcement Review Board in respect to the activities of peace officers or custodial officers, including recommendations relating to the imposition of discipline and recommendations relating to any trends in regard to employees involved in citizen complaints.

(4) Prepare an annual report to the Board of Supervisors, the Chief Administrative Officer, the Sheriff and the Probation Officer summarizing the activities and recommendations of the Citizens Law Enforcement Review Board, including the tracking and identification of trends in respect to all complaints received and investigated during the reporting period.

(5) Notify in writing any citizen having filed a complaint with the Citizens Law Enforcement Review Board of the disposition of his or her complaint. The Chief Administrative Officer shall also receive appropriate notification of the disposition of citizen complaints.

(6) Review and make recommendations on policies and procedures of the Sheriff and the Probation Officer.

(7) Establish necessary rules and regulations for the conduct of its business, subject to approval of the Board of Supervisors.

(8) Perform such other duties as the Board of Supervisors, by ordinance, may assign to the Citizens Law Enforcement Review Board.

(9) Establish rules and procedures for receipt of complaints from detention facility inmates.

(g) In the event that a County Department of Corrections is established, the Citizens Law Enforcement Review Board shall have the same powers and duties in respect to that Department, its Director, and its peace officer and custodial officer employees, as the Citizens Law Enforcement Review Board has in respect to the Sheriff, the Probation Officer and their departments and employees.

Certified to be a true copy by Leon L. Williams, Chairman of the Board of Supervisors, and Kathryn A. Nelson, Clerk of the Board of Supervisors.  
Date of Special Election: November 6, 1990.

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Charter Chapter 6—City of Irvine

*Amendments to the Charter of the City of Irvine*

[Filed with the Secretary of State December 31, 1990.]

Section 900 of Article IX is amended to read as follows:

Section 900. General Municipal Elections.

Commencing with the general municipal election in 1992, general municipal elections for the election of officers and for such other

purposes as the Council may prescribe shall be held in the City on the first Tuesday after the first Monday in November of even-numbered years, except as otherwise provided by ordinance of the City Council.

Certified to be a true copy by Sally Anne Sheridan, Mayor, and Nancy C. Lacey, City Clerk.

Date of Municipal Election: November 6, 1990.

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Charter Chapter 7—City of Pacific Grove

*Amendments to the Charter of the City of Pacific Grove*

[Filed with the Secretary of State January 9, 1991.]

Article 5.5 is added to read as follows:

Article 5.5. Residential Character of the City. In the exercise of their duties, obligations and authorities, the Council, boards and commissions, officers and employees of the City shall be guided by the determination of the people that Pacific Grove is primarily a city of homes and that business and industry shall be compatible with its residential character.

Article 7 is amended to read as follows:

Article 7. Residential Qualifications. No person shall be eligible to hold any elective office in said City unless he or she be a resident and elector herein, and shall have resided in said City for at least one year, next preceding the date of his or her election.

Article 8 is amended to read as follows:

Article 8. Elections. General municipal elections shall be held in the City on the first Tuesday after the first Monday in November in each even numbered year under and pursuant to the provisions of the General Laws of the State of California so far as the same may be applicable, except as herein otherwise provided. All other municipal elections that may be held by authority of this Charter or of the General Law shall be known as special municipal elections. At the time of filing nomination papers, each candidate for an elective office shall file with the City Clerk a sworn statement containing the following information: (A) his or her name; (B) the office for which he or she is a candidate; (C) his or her present residence and occupation; (D) the public offices he or she has held, if any, as principal, deputy or employee; (E) experience, training or education received which, in the candidate's opinion, would qualify him or her to fill the office for which he or she is a candidate. Said form shall be posted in a conspicuous public place in the City offices.

Article 10 is amended to read as follows:

Article 10. Oath of Office. Every officer shall take and subscribe to the oath of office as provided in the Constitution of the State before entering upon the performance of official duties.

Article 11 is amended to read as follows:

Article 11. The Mayor. A Mayor shall be elected at each general municipal election and shall hold office for the term of two years from and after the Tuesday next succeeding the day of such election and until a successor is elected and qualified. The Mayor may receive compensation as provided by ordinance, but in no case shall the compensation exceed that amount which is permitted by State Law for General Law cities of comparable size to Pacific Grove. The Mayor shall be ineligible to hold any office or employment with the City except as a member of any board, commission or committee thereof of which the Mayor is constituted such member by General Law. In the name and on behalf of the City the Mayor shall sign all contracts, deeds, bonds and other legal instruments in which the city is a party. The Mayor or the Mayor's designate shall represent the City at all ceremonial functions of a social or patriotic character when it is desirable or appropriate to have the City represented officially thereat. The Council shall choose one of its members to serve a Mayor protempore during the absence of the Mayor. The Mayor shall preside over all Council meetings and shall be entitled to one vote.

Article 12 is amended to read as follows:

Article 12. The Council. Three Councilmembers shall be elected at each general municipal election and shall hold office for the term of four years each from and after the Tuesday next succeeding the day of such election, and until their successors are elected and qualified.

A vacancy in an elective office shall be filled by appointment by the Council, such appointee to hold office until the next general municipal election and until a successor is elected and qualified. Such successor shall be elected for the unexpired term of his or her predecessor at the general municipal election and until a successor is elected and qualified. Such successor shall be elected for the unexpired term of his or her predecessor at the general municipal election next succeeding such appointment. Should the Council fail to fill any such vacancy within thirty days after the same occurs, then it shall be filled by appointment by the Mayor; provided, however, that if the offices of a majority, or more, of the Council shall become vacant, then the City Clerk shall call a special election at once to fill the vacancies for the unexpired terms, and the same shall be conducted substantially in the manner provided for general municipal elections.

If any Councilmember of the City shall be absent for more than two consecutive regular meetings without good cause as determined by the Council, or shall cease to be a resident or elector of the City, or shall fail to qualify, or shall resign or be convicted of a felony, or be adjudged mentally incompetent, the Councilmember's office shall thereupon become vacant.

The Councilmembers may receive compensation as provided by ordinance, but in no case shall the compensation exceed that amount which is permitted by the State Law for General Law cities of comparable size to Pacific Grove.

No Councilmember shall be eligible to hold any other office or employment with the City except as a member of any board, commission, or committee thereof, of which the Councilmember is constituted such member by the General Law of the State.

The term of office for a Councilmember who files as a candidate for the Office of Mayor shall automatically expire on the Tuesday next succeeding the general municipal election held following that filing. The filing period for candidates to fill such Councilmember's term shall be extended an additional five days.

Article 12.5 is added to read as follows:

Article 12.5. Limitation of Terms. Neither the Mayor nor any member of the Council shall serve in the same office for more than eight years in succession. Any time in office resulting from a partial term which is one-half or less the length of the full term for the office shall not be counted toward the eight year limitation. Time served in office prior to the November 1990 general municipal election shall not be counted toward the eight year limitation.

Article 19 is amended to read as follows:

Article 19. City Manager. There shall be a City Manager appointed by the affirmative vote of five-sevenths of the Council who shall be the administrative head of the City government. The City Manager shall be chosen by the Council without regard to political consideration and with reference solely to qualifications for such office. The procedure for removal of the City Manager shall be prescribed by ordinance.

It shall not be necessary that the City Manager reside in the City at the time of appointment, but the City Manager shall become a resident thereof within sixty days thereafter and thereafter during incumbency shall actually reside in the City.

The powers and duties of the City Manager shall be:

- a. To see that all ordinances are enforced.
- b. To appoint all heads of departments, subordinate officials and employees, and remove the same, and have general supervision and control over the same.
- c. To exercise general supervision over all privately owned public utilities operating within the City so far as the same are subject to municipal control.
- d. To see that the provisions of all franchises, leases, contracts, permits and privileges granted by the City are fully observed and to report to the Council any violations thereof.
- e. To act as purchasing agent for the City. The City Manager shall know the exact condition of the treasury at all times, and shall approve all demands before the same have been allowed by the Council if the City Manager is satisfied that the money is lawfully due.

f. To attend all meetings of the Council unless excused therefrom by three members thereof or by the Mayor.

g. To examine, or cause to be examined, without notice, the conduct, or the official account and records, of any officer or employee of the City.

h. To keep the Council advised as to the needs of the City.

i. To have supervision over all City property, including public buildings, parks and playgrounds.

j. To appoint such advisory boards as the City Manager may deem desirable to advise and assist the City Manager provided the members of such boards shall receive no compensation.

k. To cause a quarterly statement of all funds in the treasury to be submitted to the Council. Such statements shall be submitted not later than the first meeting in November, February, May and August.

l. To assume general control of the City government and all of its branches in case of riot, insurrection or extraordinary emergency, and to be responsible for the suppression of disorders and the restoration of normal conditions.

Article 20 is amended to read as follows:

Article 20. City Manager Protempore. In case of the absence from the City of the City Manager, or the City Manager's temporary disability to act as such, the Council shall appoint a City Manager protempore who shall possess the powers and discharge the duties of the City Manager during such absence or disability only, provided, however, that a City Manager protempore shall have no authority to appoint or remove any City officer or employee; provided that the Assistant City Manager (if any) shall be the City Manager protempore. If there is no Assistant City Manager, then the Council shall appoint a City Manager protempore as provided above.

Article 21 is amended to read as follows:

Article 21. Interference With or by City Manager. Neither the Council nor any of its committees or members shall dictate or attempt to dictate, either directly or indirectly, the appointment of any person to office or employment by the City Manager, or in any manner interfere with the City Manager or prevent the City Manager from exercising his or her own judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager, either publicly or privately.

Article 22 is amended to read as follows:

Article 22. City Clerk. A City Clerk shall be appointed by the City Manager. The City Clerk shall be Clerk of the Council. It shall be the duty of the City Clerk, or the City Clerk's deputy, to attend all sessions of the Council and to keep an accurate record of the proceedings in a book marked "Minutes of the Council." The City Clerk shall also keep a book



marked "Ordinances" and record in it all City ordinances. The official City records in the custody of the City Clerk shall not be filed in any court proceeding or other action.

The City Clerk shall be the keeper of the corporate seal of the City, and shall affix the same to instruments or writings requiring authentication.

The City Clerk and the City Clerk's deputies may certify affidavits and depositions pertaining to City affairs and business which may be used in any court proceedings in the State.

The City Clerk is the accounting officer of the City and shall maintain records readily reflecting the financial condition of the City. At the end of each fiscal year the City Clerk shall prepare and present to the legislative body a summary statement of receipts and disbursements by departments and funds, including opening and closing fund balances in the treasury. The financial and accounting duties imposed upon the City Clerk may be transferred to a director of finance when such office has been established and the powers and duties thereof defined by ordinance.

The City Clerk shall perform such additional duties as are prescribed by ordinance.

Article 23 is amended to read as follows:

Article 23. City Treasurer. A City Treasurer shall be appointed by the City Manager. The City Treasurer shall receive and safely keep all money coming into his or her hands as treasurer. The City Treasurer shall pay out money only on warrants signed by legally designated persons. Regularly, at least once each month, the City Treasurer shall submit to the City Clerk and City Manager a written report and accounting of all receipts, disbursements, and fund balances. A copy of such reports shall be filed with the City Council as may be prescribed by ordinance. The City Treasurer shall perform such duties relative to the collection of City taxes and license fees as are prescribed by ordinance.

Article 24 is amended to read as follows:

Article 24. City Attorney. There shall be a City Attorney appointed by the City Council. The City Attorney shall be an attorney-at-law, admitted to the bar of the Supreme Court of this State, and one who has been in actual practice in the State, for at least three years next preceding appointment. All other things being equal, an attorney who has had special training for this office or experience in municipal corporation law shall be appointed to this office, if practicable. The City Attorney shall be legal advisor of the Council and shall be available to all other City officials on City business.

The City Attorney shall prosecute all violations of City ordinances, and shall draft all ordinances, resolutions, contracts, or other legal documents or proceedings required by the Council or other officials, except as may be otherwise provided, and shall perform such legal services from time to time as the Council may require, and shall attend all meetings of the Council unless excused therefrom by three members thereof or by the Mayor. When from any cause therefrom the City Attorney is unable to

perform the duties of office, the City Attorney shall with the consent of the Council appoint some other qualified attorney to act temporarily as City Attorney. Whenever, in the judgment of the Council, the interests of the City require it, assistant counsel may be employed. The City Attorney shall deliver all books, records, papers, documents, and property of every description, under his or her control, owned by the City, to his or her successor in office, and shall possess such other powers, and perform such additional duties, not in conflict with this Charter, as may be prescribed by ordinance.

Article 25 is amended to read as follows:

Article 25. Compensation. The Council shall fix the compensation of all City officers and employees. The compensation of all officers and employees shall be fixed by ordinance. Any fees received by any officer or employee in connection with official duties shall be paid into the City treasury.

Article 27 is amended to read as follows:

Article 27. Approving Illegal Claims. Every officer who shall willfully and knowingly approve, allow, or pay, any demand on the treasury knowing it is not authorized by law, shall be liable to the City individually and on his or her official bond for the amount of the demand so approved, allowed, or paid, and if an appointed officer, shall forfeit office and be forever disbarred and disqualified from holding any position in the service of the City.

Article 36 is amended to read as follows:

Article 36. Payment of City Moneys. Every demand against the City shall be presented to the finance officer, who shall examine the same. If the amount thereof is legally due and there remains an unexhausted balance or an appropriation against which the same may be charged, the finance officer shall approve such demand and draw a check or warrant on the City treasury therefor, payable out of the proper fund. The finance officer shall transmit such demand or a summary thereof, with his or her approval or rejection noted thereon, to the City Manager. If the City Manager determines that a demand is one for an item included within an approved budget appropriation, the City Manager shall approve it, otherwise it shall require the approval of the City Council. Any person dissatisfied with the refusal of the City Manager to approve any demand, in whole or in part, may present the same to the City Council, which, after examining the matter, may approve or disapprove the demand in whole or in part.

Provided, that warrants for wages and salaries shall be approved by the City Manager and paid regularly from the treasury without the necessity of any demand therefor as in this Article prescribed for other claims.

Article 42 is amended to read as follows:

Article 42. Newspaper Advertising. The Council shall advertise annually for bids for a contract or contracts for official publications, ordinances and other legal notices required to be published. The newspaper or newspapers to which such a contract or contracts are

awarded shall be known as an Official Newspaper of the City. Rates for publishing public notices shall not exceed the customary rates charged for publishing legal notices of a private character.

Each bidder seeking to qualify as an Official Newspaper shall include with its bid a verifiable statement of both net paid circulation and net unpaid circulation of its newspaper within the City. The Council may accept more than one bid in any year. During any such year the City may utilize one or more of said Official Newspapers for any legal publications.

In determining which bids are lowest and best, the Council shall take into consideration, without limitation, the circulation, publication rates, frequency of publication and ability to provide legally required advertising.

The Council may reject any and all bids and may, in the event no acceptable bid is received, adopt any other legal method for legal publications.

No employee of an Official Newspaper shall be an employee of the City during his or her employer's term as an Official Newspaper.

Article 43 is amended to read as follows:

Article 43. Political Activities. (a) No candidate for elective or appointive office in the City shall solicit any assessment, subscription, contribution or political service for any political purpose from anyone on the employment lists of the City.

(b) One who holds or seeks election or appointment to any public office in the City shall not directly or indirectly use or promise or threaten to use authority or influence to secure any vote, political influence or action or contribution from any officer or employee of the City.

(c) No officer or employee of the City shall advertise the fact of his or her employment by the City in any public advertisement for a political candidate or ballot issue.

(d) Nothing herein contained applied to funds, contributions and services solicited or received to promote or defeat any ballot measure which would affect the rate of pay, hours of work, retirement, civil service or other working conditions of said officers and employees, provided such activity does not occur during working hours or in places of public duty.

Certified to be a true copy by Don Gasperson, Mayor Pro Tempore, and William S. Pitt, City Clerk.

Date of General Municipal Election: November 6, 1990.

## Charter Chapter 8—City of Santa Ana

*Amendments to the Charter of the City of Santa Ana*

[Filed with the Secretary of State January 11, 1991.]

Section 411 is amended to read as follows:

Sec. 411. Rules and procedures.

The city council shall establish rules for the conduct of its proceedings and to preserve order at its meetings. It shall, through the clerk of the council, maintain a record of its proceedings which shall be open to public inspection. Any member of the city council may place items on the city council agenda to be considered by the city council.

The city council may organize special committees of its members for the principal functions of the government of the city. It shall be the duty of each such committee to be informed of the business of the city government included within the assigned functions of the committee, and, as ordered by the city council, to report to the city council information or recommendations which shall enable the city council properly to legislate.

Each member of the city council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the city council. The city council shall have the power and authority on any investigation or proceeding pending before it to impel the attendance of witnesses, to examine them under oath, and to compel the production of evidence before it. Subpoenas may be issued in the name of the city and may be attested by the clerk of the council. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds) shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this charter are punishable.

Section 501 is amended to read as follows:

Sec. 501. Powers and duties.

The city manager shall be the chief administrative officer and the head of the administrative branch of the city government. He shall be responsible to and under the direction of the city council for the proper administration of all affairs of the city. Without limiting the foregoing general grant of powers, responsibilities, and duties, the city manager shall have power and be required to:

(a) Subject to the civil service provisions of this charter, and with the approval of the city council, appoint all department heads and officers of the city except those officers the power of appointment of whom is vested in the city council and as otherwise provided in this charter;

(b) Subject to the civil service provisions of this charter and ordinances adopted pursuant thereto, pass upon and approve all proposed appointments and removals of subordinate employees, by all officers and heads of offices, agencies and departments;

(c) Prepare the budget annually and submit it to the city council and be responsible for its administration after adoption;

(d) Prepare and submit to the city council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year;

(e) Keep the city council advised of the financial condition and future needs of the city and make such recommendations as to these matters as may seem to him desirable;

(f) Keep himself informed of the activities of the several agencies, offices, and departments of the city and see to the proper administration of their affairs and the efficient conduct of their business;

(g) Be vigilant and active in causing all provisions of the law to be executed and enforced;

(h) Perform all such duties as may be prescribed by this charter or required of him by the city council, not inconsistent with this charter;

(i) Submit a monthly report to the city council covering significant activities of the city agencies, offices, and departments under his supervision and any significant changes in administrative rules and procedures promulgated by him;

(j) Submit special reports in writing to the city council in answer to any requests for information filed with him by a member of the city council.

Section 614 is amended to read as follows:

Sec. 614. Same—For money or damages.

Except in those cases where a shorter or longer time is otherwise provided by law, all claims for money or damages against the city must be presented to the director of finance within ninety (90) days after the occurrence, event, or transaction from which the damages allegedly arose, and shall set forth in detail the name and address of the claimant, the time, date, place, and circumstances of the occurrence, and the extent of the injuries or damages received. All other claims or demands shall be presented to the director of finance within ninety (90) days after the last item of the account or claim accrued. In all cases such claims shall be approved or rejected in writing and the date thereof given. Failure to act upon any claim or demand within sixty (60) days from the day the same is filed with the director of finance shall be deemed a rejection thereof.

No suit shall be brought on any claim for money or damages against the city, or any officer or board thereof, until a demand for the same has been presented as herein provided and rejected in whole or in part.

Section 700 is amended to read as follows:

Sec. 700. City administrative organization.

The city council may provide by ordinance not inconsistent with this charter, for the organization, conduct, and operation of the several offices, departments, and other agencies of the city as established by this charter, for the creation of additional departments, divisions, offices, and agencies and for their alteration or abolition, for their assignment and

reassignment to departments, and for the number, titles, qualifications, powers, duties, and compensation of all officers and employees.

The city council by ordinance may assign additional functions or duties to offices, departments, or other agencies established by this charter, but shall not discontinue or assign to any other office, department, or other agency any function or duty assigned by this charter to a particular office, department, or agency. No office provided in this charter, to be filled by appointment by the city manager, shall be combined with an office provided in this charter to be filled by appointment by the city council.

Notwithstanding the foregoing, the city council may transfer or consolidate functions of the city government to or with appropriate functions of the state or county government and, in case of any such transfer or consolidation, the provisions of this charter providing for the functions of the city government so transferred or consolidated, shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed by ordinance.

Subject to the civil service provisions and Section 501 of this charter, all officers and department heads of the city except the city attorney and the clerk of the council, shall be appointed by the city manager and shall thereafter serve at the pleasure of the city manager.

Section 701 is amended to read as follows:

Sec. 701. Officers appointed by the city council.

In addition to the city manager the city council shall appoint the city attorney who shall serve at the pleasure of the city council and may be removed by motion of the city council adopted by the affirmative votes of at least two-thirds ( $\frac{2}{3}$ ) of the members of the council. Subject to the civil service provisions of this charter, the city council shall appoint the clerk of the council who shall serve at the pleasure of the city council and may be removed by motion of the city council adopted by the affirmative votes of the same number of members of the city council as required to remove the city manager and the city attorney.

Section 705 is added to read as follows:

Sec. 705. Performance review.

On or before the annual anniversary date of appointment of persons serving in the positions of city manager, city attorney and clerk of the council, the city council shall review and evaluate the performance of such appointees.

Section 1501 is amended to read as follows:

Sec. 1501. Violations.

The violation of any provision of this charter shall be deemed a misdemeanor and be punishable upon conviction in the same manner as provided in the Penal Code of the State of California as the same now reads or as hereafter amended.

Certified to be a true copy by Daniel H. Young, Mayor, and Janice C. Guy, Clerk of the Council.

Date of Municipal Election: November 6, 1990.

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Charter Chapter 9—City of Stockton

*Amendments to the Charter of the City of Stockton*

[Filed with the Secretary of State December 18, 1990.]

ARTICLE XXXIV is deleted in its entirety.

ARTICLE XXV is added and shall read as follows:

ARTICLE XXV

CITY PLANNING COMMISSION

Appointment of Members; Terms of Office

SECTION 1. There shall be a City Planning Commission composed of a number of members equal to the number of members on the City Council including the Mayor. Each member of the City Council shall select a candidate from the district from which the councilmember has been elected to be nominated for the position of Planning Commissioner. The Mayor shall nominate an at-large member of the Planning Commission. Each nominee shall become a member of the Planning Commission upon ratification by a majority vote of the City Council. Except as otherwise provided in this Article, the Commission members shall be appointed for terms of four years. Any member of the Commission may be removed for cause by a majority vote of the City Council. Any member of the Commission moving from the district from which he or she was selected during his or her term shall automatically forfeit the office, the same to be refilled pursuant to the provisions of this Article.

The terms of office of the members of the Planning Commission in office at the time of the adoption of this article shall expire upon the filing of the amendment with the Secretary of State. Commissioners selected pursuant to the provisions of this Article shall take office on the day following the filing of the amendment with the Secretary of State. Commissioners appointed from odd-numbered Districts shall hold office for a term ending December 31, 1994. Commissioners appointed from even-numbered Districts as well as the at-large Commissioner shall hold office for a term ending December 31, 1992. Thereafter, all Commissioners shall be appointed to a term of four years, beginning January 1 of the year following their appointment. If a vacancy shall occur other than by expiration of term, it shall be filled by appointment for the unexpired portion of the term pursuant to the provisions of this Article.

No person appointed as a Commissioner shall be eligible to serve for more than two consecutive terms. Terms of service as a Commissioner prior to January 1, 1991, shall not be applied to this limitation of terms.

**SECTION 2. POWERS AND DUTIES.**

The Planning Commission shall have the power and duty to:

(a) Recommend to the Council, after a public hearing thereon, the adoption, amendment or repeal of a General Plan or any part thereof for the physical development of the City; and

(b) Exercise such functions with respect to land subdivisions, planning and zoning as may be prescribed by ordinance or resolution or by state law.

Certified to be a true copy by Joan Darrah, Mayor, and Frances Hong, City Clerk.

Date of Municipal Election: November 6, 1990.

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Charter Chapter 10—City of Anaheim

***Amendments to the Charter of the City of Anaheim***

[Filed with the Secretary of State February 19, 1991.]

Section 518 is amended to read as follows:

**Section 518. CONTRACTS. EXECUTION.**

The City shall not be bound by any contract, except as hereinafter provided, unless the same shall be made in writing, approved by the City Council and signed on behalf of the City by the Mayor and City Clerk or by such officer or officers as shall be designated by the City Council. Any of said officers shall sign a contract on behalf of the City when directed to do so by the City Council.

By ordinance or resolution the City Council may authorize the City Manager to bind the City, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the City Council, and may impose a monetary limit upon such authority.

The City Council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the City Service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the exhibition of events at Anaheim Stadium may be made by the Stadium General Manager or the head of such department or the City Manager at rates fixed or authorized by the City Council provided the form of any such contract is approved by the City Attorney.

Contracts for the exhibition of events at the Anaheim Convention Center may be made by the Convention Center General Manager or the



head of such department or the City Manager at rates fixed or authorized by the City Council provided the form of any such contract is approved by the City Attorney.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or City Manager upon forms approved by the City Manager and at rates fixed by the City Council.

The provisions of this Section shall not apply to the employment of any person by the City at a regular salary.

Section 604 is amended to read as follows:

**Section 604. POWERS AND DUTIES.**

The City Manager shall be the chief administrative officer and head of the administrative branch of the City Government. Except as otherwise provided in this Charter, he shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, subject to the provisions of this Charter, including the personnel provisions thereof, the City Manager shall have power and be required to:

(a) Appoint, and he may promote, demote, suspend or remove all department heads, officers and employees of the City except elective officers and those department heads, officers and employees the power of whose appointment is vested by this Charter in the City Council. He may authorize the head of any department or office to appoint or remove subordinates in such department or office. No department head shall be appointed or removed until the City Manager shall first have reviewed such appointment or removal with the City Council and received its approval for such appointment or removal.

(b) Prepare the budget annually, submit it to the City Council, and be responsible for its administration after its adoption.

(c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances of the City for the preceding fiscal year, and annually or more frequently, a current report of the principal administrative activities of the City.

(d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may to him seem desirable.

(e) Establish a centralized purchasing system for all City offices, departments and agencies.

(f) Prepare rules and regulations governing the contracting for, purchasing, inspection, storing, inventory, distribution and disposal of all supplies, materials, equipment and services required by any office, department or agency of the City government and recommend them to the City Council for adoption by ordinance, and administer and enforce the same after adoption.

(g) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City are enforced.

(h) Exercise control of all administrative offices and departments of the City and of all appointive officers and employees except those directly appointed by the City Council and prescribe such general rules and regulations as he may deem necessary or proper for the general conduct of the administrative offices and departments of the City under his jurisdiction.

(i) Perform such other duties consistent with this Charter as may be required of him by the City Council.

Section 705 is amended to read as follows:

**Section 705. CITY TREASURER. POWERS AND DUTIES.**

The City Treasurer shall have the power and shall be required to:

(a) Receive on behalf of the City all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal Government, or from any Court, or from any office, department or agency of the City.

(b) Have custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit or cause to be deposited all funds coming into his hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.

(c) Pay out moneys on proper orders, warrants, checks, or other negotiable instruments in the manner provided for in this Charter and verify authenticity and accuracy of all checks and other negotiable instruments drawn upon any City depository and return incorrect, forged or otherwise unauthorized checks and instruments to such depository.

(d) Prepare and submit to the Director of Finance monthly written reports of all receipts, disbursements and fund balances, and shall file copies of such reports with the City Manager.

(e) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

Section 706 is amended to read as follows:

**Section 706. DIRECTOR OF FINANCE. POWERS AND DUTIES.**

The Director of Finance shall have the power and shall be required to:

(a) Have charge of the administration of the financial affairs of the City under the direction of the City Manager, and be head of the Finance Department of the City.

(b) Assist the City Manager in the preparation and execution of the budget.

(c) Establish and maintain a system of financial procedures, accounts and controls for the City government and each of its offices, departments and agencies.

(d) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit and approve before payment, all bills, invoices, payrolls, demands or charges against the City government; with the advice of the City Attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges; and draw warrants upon the City Treasurer, or where such procedure is authorized by the City Council, prepare checks or other negotiable instruments drawn upon a proper City depository for the approval and signature of the City Treasurer and countersignature of the Mayor, for all claims and demands audited and approved as in this Charter provided specifying the purpose for which drawn and the fund from which payment is to be made.

(e) See that all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and all other money receivable by the City from the County, State or Federal Government, or from any court, office, department or agency of the City are collected.

(f) Submit to the City Council through the City Manager a monthly statement of all revenues and expenditures in sufficient detail to show the exact financial condition of the City; and, as of the end of each fiscal year, submit a complete financial statement and report.

(g) Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies.

(h) Perform such other duties consistent with this Charter as may be required.

Section 1206 is amended to read as follows:

**Section 1206. CENTRALIZED PURCHASING.**

Under the control and direction of the City Manager there shall be established a centralized purchasing system for all City departments and agencies, except as otherwise in this Charter provided. The City Manager shall recommend and the City Council shall consider and adopt by ordinance, rules and regulations governing the contracting for, purchasing, storing, and distribution of all supplies, materials, equipment and services required by any office, department or agency of the City government.

Section 1216 is amended to read as follows:

**Section 1216. CLAIMS AND DEMANDS. PRESENTATION AND PAYMENT.**

Procedures prescribed by the State Legislature governing the presentation, consideration and enforcement of claims against chartered cities or against officers, agents and employees thereof shall apply to the presentation, consideration and enforcement of claims against the City.

In the absence of applicable procedures prescribed by the State Legislature, and to the extent that the same are not inconsistent therewith, the following provisions of this Section shall govern the presentation, processing and payment of all claims and demands against the City.

All claims for damages against the City must be presented in writing to the City Clerk within six months after the occurrence, event or transaction from which the damages allegedly arose, and shall set forth in detail the name and address of the claimant, the time, date, place and circumstances of the occurrence and the extent of the injuries or damages sustained. All such claims shall be approved or rejected in writing by order of the City Council and the date thereof given.

All other demands against the City must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented to the Director of Finance within one hundred days after the last item of the account or claim accrued. The Director of Finance shall examine the same. If the amount thereof is legally due and there remains on his books an unexhausted balance of any appropriation against which the same may be charged, he shall approve such demand and either draw his warrant on the City Treasurer therefor or, where such procedure is authorized by the City Council, prepare a check or other negotiable instrument drawn on a City depository to be approved and signed by the City Treasurer and countersigned by the Mayor, payable out of the proper fund or account. Otherwise he shall reject it. Objections of the Director of Finance may be overruled by the City Council and the warrant or negotiable instrument ordered drawn. The Director of Finance shall transmit such demand, with his approval or rejection thereof endorsed thereon, and warrant or negotiable instrument, if any, to the City Manager. If a demand is one for an item included within an approved budget appropriation, it shall require the approval of the City Manager before payment; otherwise it shall require the approval of the City Council, following the adoption by it of any amendment to the budget authorizing such payment. Any person dissatisfied with the refusal of the City Manager to approve any demand, in whole or in part, may present the same to the City Council within the time required by law which, after examining into the matter, shall approve or reject the demand in whole or in part.

Section 1221 is amended to read as follows:

Section 1221. UTILITY RATES.

The City Council shall establish rates, rules and regulations for the water and electrical utilities. The rates shall be sufficient with respect to each utility to pay:

- (a) For operations and maintenance of the system.
- (b) For payment of principal and interest on debt.
- (c) For creation and maintenance of finance reserves adequate to assure debt service on bonds outstanding.

(d) For capital construction of new facilities and improvements of existing facilities, or maintenance of a reserve fund for that purpose.

(e) For payments to the general fund of the City (exclusive of those amounts paid pursuant to subsection (a) of this Section 1221) in each fiscal year in an amount equal to, or less than, four percent (4%) of the gross revenue earned by the utility during the previous fiscal year.

Rates shall be reviewed by the City Council periodically to insure that financial goals are being accomplished.

Rates shall be uniform for all consumers within the same class and shall be based on the cost of service revenue requirement for the class; but different rate schedules may be applied to different classes of consumers. Notwithstanding the foregoing, the City Council may establish, and revise from time to time, ratepayer discount and other programs to assist residential customers in the payment of their utility bills and the costs of such discount and other programs may be paid from utility revenues.

Certified to be a true copy by Fred Hunter, Mayor, and Leonora N. Sohl, City Clerk.

Date of Municipal Election: November 6, 1990.

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## Charter Chapter 11—City of Petaluma

### *Amendments to the Charter of the City of Petaluma*

[Filed with the Secretary of State February 19, 1991.]

Section 82 Police and Fire Binding Arbitration under Article XIV Miscellaneous is added to read as follows:

Section 82: POLICE AND FIRE BINDING ARBITRATION.

Section 1. Declaration of Policy. It is hereby declared to be the policy of the City of Petaluma that strikes by firefighters and police officers pose an imminent threat to public health and safety and should be prohibited, and that a method should be adopted for peacefully and equitably resolving disputes that might otherwise lead to such strikes.

Section 2. Prohibition Against Strikes. No City of Petaluma police officer or firefighter employees, employee union, association or organization shall, strike or engage in such concerted economic activity against the City of Petaluma. Disputes unresolved by negotiations should be resolved by the arbitration procedure set forth herein. Any such employee who fails to report for work without good and just cause during said negotiations or who aids, abets or encourages strikes, or other such economic activity against the City of Petaluma during such time shall be subject to disciplinary action, including, but not limited to termination

from the City of Petaluma employment, subject to the provisions of this Charter, the City's Personnel Rules and Regulations and lawful procedures.

**Section 3. Obligation to Negotiate in Good Faith.** The City, through its duly authorized representatives, shall negotiate in good faith with the recognized fire and police department employee organizations on all matters relating to the wages, hours, and other terms and conditions of the City employment, including the establishment of procedures for the resolution of grievances submitted by either employee organization over the interpretation or application of any negotiated agreement including a provision for binding arbitration of those grievances. Unless and until agreement is reached through negotiations between the City and the recognized employee organization for the fire or police department or a determination is made through the arbitration procedure hereinafter provided, no existing benefit or condition of employment for the members of the fire department or police department bargaining unit shall be eliminated or changed.

**Section 4. Impasse Resolution Procedures.** All disputes or controversies pertaining to wages, hours, or terms and conditions of employment which remain unresolved after good faith negotiations between the City and either the fire or police department employee organization shall be submitted to a three-member Board of Arbitrators upon the declaration of an impasse by the city or by the recognized employee organization involved in the dispute.

Representatives designated by the City and representatives of the recognized employee organization involved in the dispute, controversy or grievance shall each select one arbitrator to the Board of Arbitrators within three (3) days after either party has notified the other, in writing, that it desires to proceed to arbitration. The third member of the Arbitration Board shall be selected by agreement between the two arbitrators selected by the City and the employee organization, and shall serve as the neutral arbitrator and Chairman of the Board. In the event that the arbitrators selected by the City and the employee organization cannot agree upon the selection of the third arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, then either party may request the State of California Conciliation Service to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the arbitrators selected by the City and the employee organization cannot agree within three (3) days after receipt of such list on one of seven (7) to act as the third arbitrator, they shall alternately strike names from the list of nominees until only one name remains and that person shall then become the third arbitrator and chairman of the Arbitration Board.

Any arbitration convened pursuant to this article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure.

At the conclusion of the arbitration hearings, the Arbitration Board shall direct each of the parties to submit, within such time as the Board may establish, a last offer of settlement on each of the issues in dispute. The Arbitration Board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms with those factors traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of public and private employment, including, but not limited to, changes in the average consumer price index for goods and services, the wages, hours, and other terms and conditions of employment of other employees performing similar services, and the financial condition of the City and its ability to meet the cost of the award.

After reaching a decision, the Arbitration Board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the Arbitration Board shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten-day period the parties may meet privately, attempt to resolve their differences, and by mutual agreement amend or modify any of the decisions of the Arbitration Board. At the conclusion of the ten-day period, which may be extended by mutual agreement between the parties, the decision of the Arbitration Board together with any amendments or modifications agreed to by the parties shall be publicly disclosed and shall be binding upon the parties. The City and the recognized employee organization shall take whatever action is necessary to carry out and effectuate the award.

The expense of any arbitration convened pursuant to this article, including the fee for the services of the Chairman of the Arbitration Board, shall be borne equally by the parties. All other expenses which the parties may incur individually are to be borne by the party incurring such expenses.

Certified to be a true copy by M. Patricia Hilligoss, Mayor, and Patricia E. Bernard, City Clerk.

Date of Municipal Election: November 6, 1990.

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Charter Chapter 12—City of San Diego

*Amendments to the Charter of the City of San Diego*

[Filed with the Secretary of State February 19, 1991 ]

Section 4 of Article II is amended to read as follows:

**Section 4. DISTRICTS ESTABLISHED.**

For the purpose of electing members of the Council the City shall be divided into eight Districts as nearly equal in population as practicable.

For the municipal primary and general election in 1965, the boundaries of the eight council districts shall be established by the City Council as such Council was elected at the municipal election in 1963. Thereafter the boundaries of such districts shall be subject to alteration and change under the provisions of this Charter.

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

Section 12 of Article II is amended to read as follows:

**Section 12. THE COUNCIL.**

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

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

Council members, other than the Mayor, shall be elected at either the municipal primary or the general municipal election held in the odd-numbered years and, except as hereinafter provided, shall hold office for the term of four (4) years from and after 10 a.m. the first Monday after the first day of December next succeeding their election and until their successors are elected and qualified. Upon any redistricting pursuant to the provisions of this Charter, incumbent Council members will continue to represent the district in which they reside, unless as a result of such redistricting more than one incumbent Council member resides within any one district, in which case the City Council may determine by lot which Council member shall represent each district. At the next municipal primary and general elections following a redistricting, Council members shall be elected from those districts not represented and from those districts represented by incumbent Council members whose terms expire as of the general election in said year. If, as a result of any redistricting, more than a simple majority of the City Council as redistricted shall be elected at either the municipal primary or general election next following any such redistricting, the City Council prior to any such election shall designate one or more new districts for which the initial council term shall be two (2) years in order to retain staggered terms for Council members.

In the event a vacancy occurs for any reason in the office of a Council District, the Council shall have authority to fill such vacancy by appointment by the remaining Council members; provided, however, that if the



Council fails to fill such vacancy by appointment within thirty (30) days after the vacancy occurs, the Council shall immediately cause an election to be held to fill such vacancy solely in the district in which the vacancy occurred. Such election shall be conducted within ninety (90) days of the vacancy. In the event one candidate receives the majority of votes cast for all candidates for the particular vacant elective office, the candidate so receiving the majority of votes shall be deemed to be and declared by the Council to be elected to the vacant office. In the event no candidate receives a majority of votes cast, the two candidates receiving the highest number of votes for the particular vacant elective office at the election shall be the candidates, and only candidates, for the vacant office and the names of only those two candidates shall be printed on the ballots to be used at the run-off election. Any person who fills the vacancy, whether by appointment or election in the District, shall hold office only until the next regular municipal election, at which time a person shall be elected under the provisions of Section 10 of this Charter to serve for the remainder, if any, of the unexpired term.

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

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

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

Section 92 of Article VII is amended to read as follows:

**Section 92. BORROWING MONEY ON SHORT TERM NOTES.**

Bonds or notes may be issued in anticipation of the collection of special assessments, and bonds, notes, or registered warrants on the treasury may be issued in anticipation of the collection of taxes and revenues, as authorized by the City Council by resolution and shall not be deemed the creation of debt within the meaning of Section 90 of this Article. Bonds, notes or registered warrants on the treasury issued in anticipation of the collection of the taxes of any fiscal year may be issued during each fiscal year and each such bond, note, or warrant shall specify that it is payable out of the taxes and revenues of the fiscal year in which issued, and shall not bear a higher rate of interest than the maximum rate established by Council Resolution within the legal limit, and the total amount of such bonds, notes or warrants, authorized and issued in any fiscal year shall not, in the aggregate, be more than twenty-five percent (25%) of the total appropriations of the City for such year. Nothing herein contained

shall be construed to authorize the incurring of an obligation against the municipality in excess of that authorized to be incurred by the Constitution of the State of California.

Section 141 of Article IX is amended to read as follows:

**Section 141. CITY EMPLOYEES' RETIREMENT SYSTEM.**

The Council of the City is hereby authorized and empowered by ordinance to establish a retirement system and to provide for death benefits for compensated public officers and employees, other than those policemen and firemen who were members of a pension system on June 30, 1946. No employee shall be retired before reaching the age of sixty-two years and before completing ten years of continuous service, except such employees may be given the option to retire at the age of fifty-five years after twenty years of continuous service with a proportionately reduced allowance. Policemen, firemen and full time lifeguards, however, who have had ten years of continuous service may be retired at the age of fifty-five years, except such policemen, firemen and full time lifeguards may be given the option to retire at the age of fifty years after twenty years of continuous service with a proportionately reduced allowance.

The Council may also in said ordinance provide:

(a) For the retirement with benefits of an employee who has become physically or mentally disabled by reason of bodily injuries received in or by reason of sickness caused by the discharge of duty or as a result thereof to such an extent as to render necessary retirement from active service.

(b) Death benefits for dependents of employees who are killed in the line of duty or who die as a result of injuries suffered in the performance of duty.

(c) Retirement with benefits of an employee who, after ten years of service, has become disabled to the extent of not being capable of performing assigned duties, or who is separated from City service without fault or delinquency.

Section 143.1 of Article IX is amended to read as follows:

**Section 143.1. APPROVAL OF AMENDMENTS BY MEMBERS.**

No ordinance amending the retirement system which affects the benefits of any employee under such retirement system shall be adopted without the approval of a majority vote of the members of said system.

No ordinance amending the retirement system which affects the vested defined benefits of any retiree of such retirement system shall be adopted without the approval of a majority vote of the affected retirees of said retirement system.

Section 221 is added to Article XIV to read as follows:

**Section 221. SALE OF REAL PROPERTY.**

Real property owned by The City of San Diego consisting of eighty (80) contiguous acres or more, whether or not in separate parcels, shall not be sold or exchanged unless such sale or exchange shall have first been authorized by ordinance of the Council and thereafter ratified by the electors of The City of San Diego. The foregoing shall not apply to the

sale or exchange of real property to a governmental agency for bona fide governmental purposes which sale or exchange was duly authorized by ordinance of the Council, nor shall it apply to properties previously authorized for disposition by the electors of The City of San Diego.

Certified to be a true copy by Maureen F. O'Connor, Mayor, and Charles G. Abdelnour, City Clerk.

Date of Municipal Election: November 6, 1990.

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Charter Chapter 13—City of Monterey

*Amendments to the Charter of the City of Monterey*

[Filed with the Secretary of State March 18, 1991.]

Sec. 4.25. Conduct of Closed Meetings

The City Council and other city public boards and commissions may meet in legally authorized closed sessions as permitted by the Ralph M. Brown Act. All actions taken in closed session shall be by roll call vote, and each individual vote shall be made public at the meeting at which it is taken or at the next public meeting, except as set forth following:

Votes taken at such session pertaining to non-personnel matters are exempted from disclosure if such disclosure will, in the opinion of the City Attorney, jeopardize the City's position; however, individual votes shall be made public after determination, on advice of the City Attorney, that such matters have been finalized. In that event, disclosure of votes shall be made public at the meeting during which the matter becomes final, or the next public meeting.

An electronic recording shall be taken at all closed sessions. Such recordings are not public records and shall be kept confidential. The recordings shall be made available to qualified members of the legislative body involved, or a court of competent jurisdiction if a violation of the Brown Act is alleged to have occurred.

If any provision of this section is invalidated by any court of competent jurisdiction or declared in conflict with provision of any state law, the other provisions shall remain in full force and effect.

Certified to be a true copy by: Daniel Albert, Mayor, and Cynthia Parham, City Clerk.

Date of Municipal Election: March 5, 1991.

## Charter Chapter 14—City of Alameda

***Amendments to the Charter of the City of Alameda***

[Filed with the Secretary of State March 20, 1991.]

Section 26-3 is added to Article XXVI to read as follows:

Section 26-3. The maximum density for any residential development within the City of Alameda shall be one housing unit per 2,000 square feet of land. This limitation shall not apply to the repair or replacement of existing residential units, whether single-family or multiple-unit, which are damaged or destroyed by fire or other disaster; provided that the total number of residential units on any lot may not be increased. This limitation also shall not apply to replacement units under Section 26-2.

Certified to be a true copy by Chuck Corica, Mayor, and Diane B. Felsch, City Clerk.

Date of Municipal Election: March 5, 1991.

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 Charter Chapter 15—City of Redondo Beach
***Amendments to the Charter of the City of Redondo Beach***

[Filed with the Secretary of State April 2, 1991.]

Sec. 15.14 Library Commission

The Library Commission shall consist of seven (7) members.

Certified to be a true copy by Brad Parton, Mayor, and John L. Oliver, City Clerk.

Date of Election: March 5, 1991.

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 Charter Chapter 16—City of Anaheim
***Amendments to the Charter of the City of Anaheim***

[Filed with the Secretary of State April 18, 1991 ]

Section 500 is amended to read as follows:

Section 500. CITY COUNCIL. TERMS.

(a) The following provisions shall be in effect and apply only until and prior to November 8, 1994:

(1) The elective officers of the City shall consist of a City Council of five members elected from the City at large at the times and in the manner provided in this Charter who shall serve for a term of four years and until their respective successors qualify.

(2) The five members of the City Council in office at the time this Charter provision takes effect shall continue in office until their successors are elected and qualified. Three members of the City Council shall be elected at the general municipal election held in November, 1986, and each fourth year thereafter. Two members of the City Council shall be elected at the general municipal election held in November, 1984, and each fourth year thereafter.

(3) The term of each member of the City Council, including the mayor, shall commence on the first Tuesday following his or her election. Ties in voting among candidates for office, including the office of Mayor, shall be settled by the casting of lots.

(b) The following provisions shall be in effect and apply on and after November 8, 1991, and, notwithstanding paragraph (a) above, shall further apply with regard to all matters concerning the general municipal election scheduled to be held on or about November 8, 1994:

(1) The elective officers of the City shall consist of a Mayor and four City Council members elected from the City at large and at the times and in the manner provided in this Charter who shall serve for a term of four years and until their respective successors qualify. The term "City Council," "legislative body," or other similar terms as used in this Charter or any other provision of law shall be deemed to refer to the collective body composed of the Mayor and four City Council members unless such other provision of this charter or other provision of law expressly provides to the contrary or unless such interpretation would be clearly contrary to the intent and context of such other provision.

(2) The mayor and members of the City Council in office at the time this Charter provision takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. The Mayor and two members of the City Council shall be elected at the general municipal election held in November, 1994, and each fourth year thereafter. Two members of the City Council shall be elected at the general municipal election held in November, 1996, and each fourth year thereafter.

(3) The term of each member of the City Council, including the Mayor, shall commence on the first Tuesday following his or her election. Ties in voting among candidates for office, including the office of the Mayor, shall be settled by the casting of lots.

Section 501 is amended to read as follows:

Section 501. ELIGIBILITY.

No person shall be eligible to hold office as the Mayor or a member of the City Council unless he or she is and shall have been a resident and qualified elector of the City at the time of, and for the thirty-day period immediately preceding, filing of his or her nominating papers or such

other equivalent declaration of candidacy as may be required or authorized by law, or at the time of, and for the thirty-day period immediately preceding, his or her appointment to such office.

Section 502 is amended to read as follows:

**Section 502. COMPENSATION.**

The members of the City Council, including the Mayor, shall receive as compensation for their services as such a monthly salary in such amount as established in accordance with, and limited by, the provisions of law applicable to the salaries of City Council members in general law cities as set forth in Section 36516 of the Government Code of the State of California or any successor provision thereto.

In addition, each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling and other expenses when on official duty. In addition, members shall receive reimbursement for itemized routine and ordinary expenses incurred in official duty or such reasonable and adequate amount as may be established by ordinance, which amount shall be deemed to be reimbursement to them of routine and ordinary expenses imposed upon them by virtue of their service as members of the City Council.

Section 503 is amended to read as follows:

**Section 503. VACANCIES.**

A vacancy in the office of Mayor or on the City Council, from whatever cause arising, shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next general municipal election and until his successor qualifies. At the next general municipal election following any vacancy, a successor shall be elected to serve for the remainder of any unexpired term. As used in this paragraph, the next general municipal election shall mean the next such election at which it is possible to place the matter on the ballot and elect a successor.

If the Mayor or a member of the City Council absents himself from all regular meetings of the City Council for a period of thirty days consecutively from and after the last regular City Council meeting attended by such person, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be an elector of the City, his office shall become vacant. The City Council shall declare the existence of any such vacancy.

In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall cause an election to be held forthwith to fill such vacancy for the remainder of the unexpired term.

Section 504 is amended to read as follows:

**Section 504. MAYOR.**

(a) The following provisions shall be in effect and apply only until and prior to November 8, 1994:

The Mayor shall be a regular voting member of the City Council, elected from such Council membership at each regular election of the Councilmen.

## (1) Duties, Term and Eligibility—

The Mayor may make and second motions and shall have a voice and vote in all proceedings. He shall be the official head of the City for ceremonial purposes. He shall have the primary, but not the exclusive, responsibility for communicating the policies, programs and needs of the City government to the people, and as occasion requires, he may inform the people of any major change in policy or program. He shall perform such other duties consistent with his office as may be prescribed by this Charter or as may be imposed by the City Council.

The elected Mayor shall serve for a term of two years and until his successor is elected and qualified. No one shall be eligible to hold the office of Mayor, except a duly elected and qualified Councilman who has served as Councilman for two years preceding his election as Mayor.

(2) Election of Mayor—At each general City election, each incumbent Councilman may file for election to the office of Mayor. Those members of the City Council whose terms expire and are filing for re-election, may also file for the office of Mayor, in addition to filing for re-election as Councilman. Councilmen who desire to file for the office of Mayor shall file a declaration of intention with the Office of the City Clerk at the same time and in the same manner as candidates for the Office of Councilman. At the election for Mayor, the candidate receiving the highest number of votes shall be declared elected. In determining which candidate shall be elected Mayor, no write-in vote shall be counted. In preparing the ballot for the Mayor's election, the City Clerk shall have printed in large boldface type the following language:

**“VOTE ONLY FOR A DECLARED CANDIDATE”**

In case of a vacancy in the office of Mayor, the Council shall select a Mayor from the eligible Councilmen to fill the vacancy. The Office of Mayor shall be deemed vacant when the person holding such office no longer holds office as Councilman for any reason.

(3) The City Council shall designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during his absence or disability.

(b) The following provisions shall be in effect and apply on and after November 8, 1994, and notwithstanding paragraph (a) above, shall further apply with regard to all matters concerning the general municipal election scheduled to be held on or about November 8, 1994:

(1) The Mayor shall have the same rights, privileges, powers and duties as are held by members of the City Council and shall be regarded as a member of the City Council for all purposes except to the extent expressly inconsistent with any other provision of this Charter or other applicable law.

(2) The Mayor may make and second motions and shall have a voice and vote in all proceedings of the City Council. He shall be the official head of the City for ceremonial purposes. He shall have the primary, but

not the exclusive, responsibility for communicating the policies, programs and needs of the City government to the people, and as occasion requires, he may inform the people of any major change in policy or program. He shall perform such other duties consistent with his office as may be prescribed by this Charter or as may be imposed by the City Council.

(3) The elected Mayor shall serve for a term of four years and until his successor is elected and qualified.

(4) The City Council shall designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during his absence or disability.

(5) Notwithstanding any other provision of this Charter to the contrary, no person shall file nominating papers, or other equivalent declaration of candidacy as may be required or authorized by law, for election to both the office of Mayor and member of the City Council at the same election. The City Clerk shall reject, refuse to accept for filing, and otherwise refuse to process any such nominating papers or other declaration of candidacy for the office of Mayor or City Council member where such person has previously filed nominating papers or a declaration of candidacy for election to the office of Mayor or City Council member at the same election. In the event a person seeks to simultaneously file nominating papers or declarations of candidacy for election to both the offices of Mayor and member of the City Council at the same election, the City Clerk shall reject, refuse to accept for filing, and otherwise refuse to process all such nominating papers or declarations of candidacy simultaneously tendered.

Certified to be a true copy by Fred Hunter, Mayor, and Leonora N. Sohl, City Clerk.

Date of Municipal Election: March 5, 1991.

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Charter Chapter 17—City of Los Angeles

*Amendments to the Charter of the City of Los Angeles*

[Filed with the Secretary of State April 29, 1991.]

Articles XI, XVI, XXII, XXIV and XXVIII are amended by amending Sections 140(e), 143(b), 170(b)(1), 220(6), 238.9 and 390 as detailed below:

Section 140(e) is amended by adding at the end of the first unnumbered paragraph thereof a new sentence, to read:



For the purpose of this Subsection (e) a franchise, permit or lease for a period of more than five (5) years shall include:

1. Any franchise, permit or lease which contains a provision, such as, but not limited to, an option clause, which would allow for a cumulative period in excess of five (5) years; or

2. Any franchise, permit or lease replacing an expiring, or expired, franchise, permit or lease involving the same party or parties with no new competitive selection process having been utilized, with a resulting cumulative period of more than five (5) years and if it is anticipated that the estimated or actual annual payments to the City under such franchise, permit or lease shall exceed One Hundred Thousand Dollars (\$100,000), adjusted annually in accordance with the Consumer Price Index.

Section 143(b) is amended by adding at the end thereof a new sentence, to read:

For the purpose of this Subsection (b) a contract for a period of more than five (5) years shall include:

1. Any contract which contains a provision, such as, but not limited to, an option clause, which would allow for a cumulative period in excess of five (5) years; or

2. Any contract replacing an expiring, or expired, contract, involving the same party or parties with no new competitive selection process having been utilized, with a resulting cumulative period of more than five (5) years and if it is anticipated that the estimated or actual annual payments to the City under such contract shall exceed One Hundred Thousand Dollars (\$100,000), adjusted annually in accordance with the Consumer Price Index.

Section 170(b)(1) is amended by adding at the end thereof a new sentence, to read:

For the purpose of this Subsection (b) such property shall not be considered as being leased for a term of not to exceed three (3) years if:

A. The lease contains a provision, such as, but not limited to, an option clause, which would allow for a cumulative term in excess of three (3) years; or

B. The lease is replacing an expiring, or expired, lease, involving the same party or parties with no new competitive selection process having been utilized, with a resulting cumulative term of more than three (3) years and if it is anticipated that the estimated or actual annual payments to the City under such lease shall exceed One Hundred Thousand Dollars (\$100,000), adjusted annually in accordance with the Consumer Price Index.

Section 220(6) is amended by adding at the end thereof a new sentence, to read:

For the purpose of this Subsection (6) a lease for a term not exceeding five (5) years shall not include a lease:

A. Which contains a provision, such as, but not limited to, an option clause, which would allow for a cumulative term exceeding five (5) years; or

B. Which is replacing, or replaced, an expiring, or expired, lease involving the same party or parties with no new competitive selection process having been utilized, with a resulting cumulative term exceeding five (5) years and if it is anticipated that the estimated or actual annual payments to the City under such franchise, permit or lease shall exceed One Hundred Thousand Dollars (\$100,000), adjusted annually in accordance with the Consumer Price Index.

Section 238.9 is amended by adding at the end of the first unnumbered paragraph a new sentence, to read:

For the purpose of this Section a franchise, permit, license or lease made for a longer period than five (5) years shall include:

(a) Any franchise, permit, license or lease which contains a provision such as, but not limited to, an option clause, that would allow for a cumulative period in excess of five (5) years; or

(b) Any franchise, permit, license or lease replacing an expiring, or expired franchise, permit, license or lease involving the same party or parties with no new competitive selection process having been utilized, with a resulting cumulative period of more than five (5) years and if it is anticipated that the estimated or actual annual payments to the City under such franchise, permit, license or lease shall exceed One Hundred Thousand Dollars (\$100,000), adjusted annually in accordance with the Consumer Price Index.

Section 390 is amended to read:

Sec. 390. Except as otherwise provided in this Charter, no board or commission of the City of Los Angeles shall make any contract obligating the City of Los Angeles, or any department of the City government, to make payments of money or other valuable consideration for a period longer than three (3) years, unless such contract shall have been first approved and authorized by ordinance of the City of Los Angeles; provided, however, that this section shall not apply to contracts entered into with the United States Government, or other governmental agencies.

For the purpose of this section a contract obligating the City of Los Angeles, or any department of the City government, to make payments of money or other valuable consideration for a period longer than three (3) years shall include:

1. A contract which contains a provision, such as, but not limited to, an option clause, which would allow for a cumulative period longer than three (3) years; or

2. A contract replacing an expiring, or expired, contract, involving the same party or parties with no new competitive selection process having

been utilized, with a resulting cumulative period of more than three (3) years and if it is anticipated that the estimated or actual annual payments to the City under such contract shall exceed One Hundred Thousand Dollars (\$100,000), adjusted annually in accordance with the Consumer Price Index.

Certified to be a true copy by John Ferraro, President of the City Council, and Elias Martinez, City Clerk.

Date of Special Municipal Election: April 9, 1991.

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Charter Chapter 18—City of Modesto

*Amendments to the Charter of the City of Modesto*

[Filed with the Secretary of State May 6, 1991.]

SECTION 1205. HEARING OFFICERS.

An appeal of any person in the Classified Service relative to any suspension, demotion or dismissal, where the right of appeal is granted by the Personnel System of the City of Modesto, shall be heard by a hearing officer, who shall be selected by the Board of Personnel Appeals. The findings and recommendations of a hearing officer shall be made to the City Manager, who shall make the final determination relative to any suspension, demotion or dismissal. An alternative procedure for hearing and final determination of appeals may be delineated by a valid and binding Memorandum of Understanding or other instrument for non-represented employees.

Hearing officers shall have the power to administer oaths and affirmations in any appeals pending before them. Hearing officers shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before them. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds) shall be deemed contempt and shall be punishable as provided by the general laws of this State.

Certified to be a true copy by Richard A. Lang, Mayor, and Norrine Coyle, City Clerk.

Date of Municipal Election: November 6, 1990.

## Charter Chapter 19—City of Pasadena

*Amendments to the Charter of the City of Pasadena*

[Filed with the Secretary of State June 5, 1991 ]

## SECTION 1507.1 Conformity with the United States Internal Revenue Code

Notwithstanding any other provision of law, the benefits payable to any person who became a member prior to January 1, 1990 shall be subject to the greater of the following limitations as provided in Section 415(b) (10) of the Internal Revenue Code:

(a) The limitations set forth in Section 415 of the Internal Revenue Code.

(b) The accrued benefit of a member under this system, determined without regard to any amendment to the system made after October 14, 1987.

(c) Notwithstanding any other provision of this Article, the benefits payable to any person who for the first time becomes a member on or after January 1, 1990 shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code.

Certified to be a true copy by Rick Cole, Vice Chair of the Board of Directors, and Marvell L. Herren, City Clerk.

Date of Municipal Election: March 5, 1991.

## Charter Chapter 20—City of Los Angeles

*Amendments to the Charter of the City of Los Angeles*

[Filed with the Secretary of State June 17, 1991 ]

Article XXVIII is amended by amending Subsection (f) of Section 386 detailed below:

Subsection (f) of Section 386 is amended to read as follows:

(f) At the time specified for opening said bids, or at any time to which the matter thereafter may be continued, for report, the contract shall be let to the lowest and best regular responsible bidder furnishing satisfactory security for its performance. This determination may be made on the basis of the lowest ultimate cost of the items in place and use; and where the same are to constitute a part of a larger project or undertaking, consideration may be given to the effect on the aggregate ultimate cost of such project or undertaking. Notwithstanding any other provision of this Charter to the contrary and to the extent permitted by law, the City and its various awarding authorities, including those City departments

which exercise independent control over their expenditure of funds, shall not enter into or renew any contract, nor exercise any option pursuant to any contract, unless the bidder is in compliance with or the contract has been excluded or exempted from any anti-apartheid policy adopted by the City by ordinance or, in the case of those departments which exercise independent control over their expenditure of funds by adoption of policies consonant with the City ordinance. The bid of any bidder previously delinquent or unfaithful in the performance of any former contract with the City may be rejected.

Article II is amended by amending Section 9 as detailed below:

Section 9 is amended to read:

Sec. 9. Vacancy and Acting Incumbency in City Office.

(a) (1) An office becomes vacant when the incumbent thereof dies, resigns, is adjudged insane, convicted of a felony, or of an offense involving a violation of his or her official duties, or is removed from office, or shall have been absent from the City without the consent of the Council for more than sixty consecutive days, or ceases to be a resident of the City, where residence therein is made a qualification for the office. An offense involving a violation of official duties includes without limitation a violation of the conflict of interest and government ethics provisions of this Charter or City ordinances; provided, however, that removal from office for violating conflict of interest or governmental ethics provisions shall be required only if a court determines that the seriousness of the offense and degree of culpability of the officer so warrant. Should any officer fail to qualify within ten days from the time he or she receives his or her certificate of election or appointment, the office to which he or she was elected or appointed shall be deemed vacant for the purpose of filling the same by appointment.

(2) For purposes of subsection (a) (1), absence from the City of the incumbent of an elective office shall be deemed to be with the consent of the Council if the absence was caused by illness, injury, or other reason, if the incumbent could not reasonably have been expected to have returned to the City under such circumstances.

(3) In addition to the circumstances giving rise to a vacancy in elective and appointive offices set forth in subsection (a) (1), an elective office becomes vacant when:

(A) the incumbent has ceased to discharge the duties of the office for ninety consecutive days, except when prevented by illness, injury, or other reasonable cause, or

(B) in a quo warranto action, or such other applicable proceeding as may be established by state law, a court has found that (i) the incumbent is then physically or mentally incapacitated due to illness, injury, or other reason such that he or she cannot perform the duties of the office, (ii) the incumbent was so incapacitated for at least ninety consecutive days prior to the filing of the application with the Office of the California Attorney General for leave to sue in quo warranto or, if such application was not legally required, any other act commencing litigation under this

paragraph, and (iii) there is reasonable cause to believe that the incumbent will not be able to perform the duties of the office for the remainder of the term of office.

(4) If the City Clerk, after investigation, has reason to believe that all of the conditions set forth in subsection (a) (3) (B) exist with respect to an incumbent elected officer, the City Clerk, on behalf of the city, shall initiate, or cause to be initiated, litigation under subsection (a) (3) (B) by filing an application for leave to sue in quo warranto with the Office of the California Attorney General or by following such other applicable procedure as may be established by state law.

(5) Litigation under subsection (a) (3) (B), in quo warranto or as otherwise provided by state law, may also be brought by any person authorized to do so by state law.

(b) The City Controller and the City Attorney each shall appoint an assistant or deputy, who thereby shall become the acting incumbent in case of any vacancy in such office as hereinabove provided, or otherwise. Such acting incumbent shall serve as City Controller or as City Attorney, respectively, until the Council appoints a successor for the unexpired balance of the term. Such appointment made by the Controller or the City Attorney shall be in writing filed with the City Clerk and may be changed from time to time. Any person so appointed must possess the qualifications prescribed for such office and shall take the oath prescribed by Sec. 13 of this Charter before assuming his or her duties as acting incumbent.

(c) The Treasurer, City Engineer, City Clerk, Secretary of the Board of Public Works, Purchasing Agent, and City Administrative Officer, for their respective offices, also shall designate, in like manner, the assistant or deputy who, upon taking the oath of office, shall serve as acting incumbent of the office in case of any vacancy in such office, until an appointment thereto is made in the manner prescribed specifically for such offices.

Article III is amended by adding Section 32.3 to read:

32.3 Commission and Board Actions—City Council Review.

Notwithstanding any other provisions of this Charter, actions of commissions and boards shall become final at the expiration of the next five (5) meeting days of the City Council during which the Council has convened in regular session, unless City Council acts within that time by a two-thirds vote to bring such commission or board action before it for consideration and for whatever action, if any, it deems appropriate. If the Council asserts such jurisdiction, said commission or board will immediately transmit such action to the City Clerk for review by the Council and the particular action of the board or commission shall not be deemed final or approved. The City Clerk, upon receipt of such action, shall place the action on the next available Council agenda in accordance with applicable State law and Council Rules. If the Council asserts such jurisdiction over the action, it shall have the same authority to act on the matter as that originally held by the board or commission, but it must then act and

make a final decision on the matter before the expiration of the next twenty-one (21) calendar days from voting to bring the matter before it, or the action of the commission or board shall become final.

This Section shall not apply to actions by any commission or board required to be referred for approval to, or appealable to, the Council pursuant to other provisions of this Charter, or any ordinance or statute, in effect prior to February 13, 1991.

Certified to be a true copy by John Ferraro, President of the City Council, and Elias Martinez, City Clerk.

Date of General Municipal and Consolidated Elections: June 4, 1991.

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Charter Chapter 21—City of San Luis Obispo

***Amendments to the Charter of the City of San Luis Obispo***

[Filed with the Secretary of State July 29, 1991 ]

Section 302 of Article III is amended to read as follows:

Section 302. General Municipal Elections. General municipal elections to fill elective offices shall be held in the City on the first Tuesday after the first Monday in November in each even-numbered year.

Section 404 of Article IV is amended to read as follows:

Section 404. Terms of Office.

(A) The term of the Mayor shall be two years, and the terms of the Councilmembers shall be four years.

(B) Terms shall commence on the first day of December at twelve o'clock noon following the election and each shall serve until a successor is elected or appointed and qualified. Ties in voting shall be settled by the casting of lots.

(C) Any other provisions in this Charter to the contrary notwithstanding:

1. The terms of office of the Mayor elected at the November 7, 1989 general municipal election and the Councilmembers elected at the November 3, 1987 general municipal election shall be extended from two years and four years respectively, until a successor is elected or appointed and qualified following the November 3, 1992 general municipal election;

2. The terms of office of the Councilmembers elected at the November 7, 1989 general municipal election shall be extended from four years until a successor is elected or appointed and qualified following the November 8, 1994 general municipal election.

3. The approximated twelve-month periods of term extension set forth in subsections (1) and (2) of this section shall not be counted in determining the disability to serve set forth in Section 405 of this Charter.

Certified to be a true copy by Ron Dunin, Mayor, and Pam Voges, City Clerk.

Date of Municipal Election: April 9, 1991.

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Charter Chapter 22—City of Chula Vista

*Amendments to the Charter of the City of Chula Vista*

[Filed with the Secretary of State August 19, 1991.]

Section 607 of Article VI is amended to read as follows:

Sec. 607 Board of Library Trustees.

There shall be a Board of Library Trustees consisting of at least five (5) members to be appointed by the City Council from the qualified electors of the City and no member of said board shall hold any paid office or employment in the city government. The number of members to comprise the board may be changed by the ordinance of the city council.

Section 602 of Article VI is amended to read as follows:

Sec. 602 Appointments; Terms and Vacancies.

(a) Appointments and Terms. The members of each of such boards or commissions shall be appointed, and shall be subject to removal, by motion of the City Council adopted by at least three affirmative votes. The members thereof shall serve a term of four (4) years and until their respective successors are appointed and qualified. Members of such advisory boards and commissions shall be limited to a maximum of two (2) consecutive terms and an interval of two (2) years must pass before a person who has served two (2) consecutive terms may be reappointed to the commission upon which the member had served; provided, further, that for the purpose of this section, an appointment to fill an unexpired term of less than two (2) years in duration shall not be considered as a term; however, any appointment to fill an unexpired term in excess of two (2) years shall be considered to be a full term.

(b) Initial Classification of Appointees. The members first appointed to such boards and commissions shall so classify themselves by lot so that on each succeeding July 1st, the term of one (1) of their number shall expire. If the total number of members of a board or commission to be appointed exceeds four (4), the classification by lot shall provide for the grouping of terms to such an extent as is necessary in order that the term of at least one (1) member shall expire on each succeeding July 1st.

(c) Vacancies. Vacancies in any board or commission, from whatever cause arising, shall be filled through appointment by the City Council. Upon a vacancy occurring, leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a member of a board or commission, consecutively, unless



by permission of such board or commission expressed in its official minutes, or is convicted of a felony or crime involving moral turpitude, or ceases to be a qualified elector of the City, the office shall become vacant and shall be so declared by the City Council.

(d) Eligibility. All members of boards and commissions shall be qualified electors in the city of Chula Vista with the exception of Youth Commissioners who need only be residents of the City of Chula Vista. No person may be appointed, nor shall serve, on more than one of the Charter-created boards or commissions simultaneously.

Certified to be a true copy by Leonard M. Moore, Mayor Pro Tempore, and Beverly A. Authalet, City Clerk.

Date of Municipal Election: November 6, 1990.

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Charter Chapter 23—City and County of San Francisco

*Amendments to the Charter of the City and County  
of San Francisco*

[Filed with the Secretary of State December 6, 1991.]

Section 3.100-3 is added to read as follows:

**3.100-3 Prohibiting Deputy Mayors**

Notwithstanding any other provisions or limitations of this charter to the contrary, the mayor may not designate nor may the city and county employ on the mayor's behalf any person to act as deputy to the mayor or any similar employment classification, regardless of title, whose responsibilities include but are not necessarily limited to supervision of the administration of any department for which the chief administrative officer, an elected official other than the mayor or an appointed board or commission is assigned responsibility elsewhere in this charter; nor may any employee in the office of the mayor be compensated at a level in excess of seventy percent of the compensation paid to the mayor under the salary standardization provisions of this charter.

This section shall take effect on the first day of January of the year following its approval by the voters of the city and county.

Section 3.530-3 is amended to read as follows:

**3.530-3 Transfer of Housing Authority Police to the City and County**

The board of supervisors of the City and County of San Francisco shall have and is hereby granted power to enter into any agreement with the State of California, or any officer, agency or commission of the State of California, and to pass all necessary legislation and to do or perform any other act or acts deemed necessary to effect the transfer of the employment, jurisdiction and control of the Housing Police Officers of the San Francisco Housing Authority to the city and county. The board of

supervisors shall make every reasonable effort to consummate such an agreement no later than July 1, 1984.

Pursuant to said agreement, the city and county shall accept the transfer of all Housing Police Officers of the San Francisco Housing Authority from said Authority. All said Housing Police officers who are transferred to the city and county shall become employees of the City and County of San Francisco under the jurisdiction of the San Francisco Police Department.

As of January 1, 1992, Housing Police Officers shall be granted status to the classification of Q2 Police Officers, provided that the individuals comply with each of the state mandated requirements for full peace officer status, and each of the City's requirements for appointment to the Q2 classification.

Employees granted Q2 Police Officer status under this section shall be subject to the same terms and conditions of employment as police officers of the City and County of San Francisco, except that said employees shall be entitled to remain members of the Public Employees' Retirement System of the State of California subject to the approval of the Public Employees' Retirement System to retain said employees. If the City is unable to obtain the agreement of the Public Employees' Retirement System to retain those employees who were Housing Police Officers on January 1, 1992, then said employees will be individually offered the choice of Q2 status and pension benefits under Charter section 8.586 as of January 1, 1992 or retention of their current status in all respects.

Section 6.415 is added to read as follows:

#### 6.415 Children's Fund

(a) There is hereby established a fund to expand children's services, which shall be called the San Francisco Children's Fund and shall be maintained separate and apart from all other city and county funds and appropriated by annual or supplemental appropriation pursuant to sections 6.205 and 6.306 of this charter. Monies therein shall be expended or used solely to provide expanded services for children as provided in this section.

(b) There is hereby set aside for the San Francisco Children's Fund, from the revenues of the tax levy pursuant to Section 6.208 of this charter, revenues in an amount equivalent to an annual tax of one-and-one-quarter cents (\$0.0125) for each one hundred dollars (\$100.00) of assessed valuation for the first fiscal year which begins ninety days or more after the election which approves this section, and revenues equivalent to an annual tax of two-and-one-half cents (\$0.025) for each one hundred dollars (\$100.00) of assessed valuation for each of the following nine fiscal years. The treasurer shall set aside and maintain said amount, together with any interest earned thereon, in said fund, and any amounts unspent or uncommitted at the end of any fiscal year shall be carried forward to the next fiscal year and, subject to the budgetary and fiscal limitations of the charter, shall be appropriated then or thereafter for the purposes specified in this section.

(c) Monies in the fund shall be used exclusively to provide services to children less than eighteen years old, above and beyond services funded prior to adoption of this section. To this end, monies from the fund shall not be appropriated or expended to fund services provided during fiscal year 1991–1992, whether or not the cost of such services increases, or appropriated or expended for services which substitute for or replace services provided during fiscal year 1990–1991 or 1991–1992, except and solely to the extent of services for which the City ceases to receive federal, state, or private agency funds which the funding agency required to be spent only on the services in question.

(d) Services for children eligible for fund assistance shall include only child care; job readiness, training and placement programs; health and social services (including pre-natal service to pregnant adult women); educational programs; recreation; delinquency prevention; and library services, in each case for children.

Services for children paid for by the fund shall not include:

(1) for example and not for purposes of limitation, services provided by the police department or other law enforcement agencies; by courts, the district attorney, public defender or city attorney; by the fire department; detention or probation services mandated by state or federal law; or public transportation;

(2) any service which benefits children incidentally or as members of a larger population including adults;

(3) any service for which a fixed or minimum level of expenditure is mandated by state or federal law, to the extent of the fixed or minimum level of expenditure;

(4) acquisition of any capital item not for primary and direct use by children;

(5) acquisition (other than by lease for a term of ten years or less) of any real property; or

(6) maintenance, utilities or any similar operating cost of any facility not used primarily and directly by children, or of any recreation or park facility (including a zoo), library facility or hospital.

(e) During each fiscal year, a minimum of twenty five percent (25%) of said fund shall be used for child care, a minimum of twenty five percent (25%) for job readiness, training and placement and a minimum of twenty five percent (25%) for health and social services for children (including pre-natal services for pregnant adult women). Beginning with the fifth fiscal year during which funds are set aside under this section, the Board of Supervisors may modify or eliminate these minimum requirements.

(f) Not later than three months after the election which approves this section and not later than December of each calendar year which begins after said election, the Mayor shall prepare and present to the Board of Supervisors a Children's Services Plan. The plan shall propose goals and objectives for the fund for the fiscal year beginning the following July 1, propose expenditures of monies from the fund for the fiscal year

beginning the following July 1 and designate the city departments which would administer the funded programs. In connection with preparation of the Children's Services Plan, and (except in connection with the first Children's Services Plan) prior to the date required for presentation to the Board, the Health Commission, Juvenile Probation Commission, Social Services Commission, Recreation and Parks Commission and Public Library Commission shall each hold at least one public hearing on the Plan. Joint hearings may be held to satisfy this requirement. Any or all of the commissions may also hold additional hearings before or after presentation of the Plan.

(g) The fund shall be used exclusively to increase the aggregate City appropriations and expenditures for those services for children which are eligible to be paid from the fund (exclusive of expenditures mandated by state or federal law). To this end, the City shall not reduce the amount of such City appropriations for eligible services (not including appropriations from the San Francisco Children's Fund and exclusive of expenditures mandated by state or federal law) in any of the ten years during which funds are required to be set aside under this section below the higher of the amount so appropriated for the fiscal year 1990-1991 or the amount so appropriated for the fiscal year 1991-1992, in either case as adjusted. Not later than three months after the election which approves this section, the Controller shall calculate and publish the applicable base amount, specifying by department and program each amount included in the base amount. Said base amount shall be adjusted for each year after the base year, based on calculations consistent from year to year, by the percentage increase or decrease in aggregate City appropriations from the base year, as estimated by the Controller. Errors in the Controller's estimate of appropriations for a fiscal year shall be corrected by an adjustment in the next year's estimate. For purposes of this subsection, aggregate City appropriations shall not include funds granted to the City by private agencies or appropriated by other public agencies and received by the City. Within ninety days following the end of each fiscal year through 2001-2002, the Controller shall calculate and publish the actual amount of City appropriations for services for children which are eligible to be paid from the fund (exclusive of expenditures mandated by state or federal law).

(h) If any provision of this section, or its application to any person or circumstance, shall be held invalid or unenforceable, the remainder of this section and its applications shall not be affected; every provision of this section is intended to be severable.

Section 8.320 is hereby repealed.

Section 8.321 is hereby repealed.

Section 8.322 is hereby repealed.

Section 8.323 is hereby repealed.

Section 8.324 is hereby repealed.

Section 8.328 is hereby repealed.

Section 8.330 is hereby repealed.

Section 8.331 is hereby repealed.

Section 8.332 is hereby repealed.

Section 8.340 is hereby repealed.

Section 8.320-1 is added to read as follows:

8.320-1 Incorporating Former Charter Provisions

The provisions of the following sections of the Charter, in the form existing prior to November 1, 1991, shall be incorporated in the rules of the Civil Service Commission, and shall remain in effect until or unless amended by the Civil Service Commission pursuant to its charter authority and subject to any applicable meet and confer or bargaining requirements under state law.

8.320 Qualification of Applicants

8.321 Examination of Applicants

8.322 Protest of Written Questions and Answers

8.323 Protest of Tentative List of Eligibles

8.324 Veterans Preference in Examinations

8.328 Promotional Examinations for Employees on Military Leave

8.330 Duration of List of Eligibles

8.331 Limited Tenure Appointments

8.332 Temporary and Emergency Appointments

8.340 Dismissal during Probationary Period

Section 8.329 is amended to read as follows:

8.329 Certification of Eligibles

Whenever a position controlled by the civil service provisions of this charter is to be filled, the appointing officer shall make a requisition to the civil service commission for a person to fill it. Thereupon, the commission shall certify to the appointing officer the names and addresses of all those persons meeting the certification rule established for that classification. The Civil Service Commission shall establish certification rules. Certification rules shall not be more restrictive than the certification of all candidates receiving the three highest scores on the list of eligibles for such positions. The appointing officer shall fill the position by the appointment of one of the persons certified. In making such certification, sex shall be disregarded except when a statute, a rule of the commission or the appointing officer specifies sex; provided however, the appointing officer shall give due consideration to applicable civil service equal employment opportunity (EEO) goals so as to maximize diversity at all levels of city employment. The mayor and the board of supervisors shall annually review each department's performance in meeting its civil service EEO obligations.

From the requisition of the appointing officer or otherwise, the commission shall determine whether the position is, in character, temporary, seasonal or permanent, and shall notify the candidate in accordance therewith to the end that the candidate may have knowledge of the probable duration of employment. The commission shall provide for such waiver of temporary or seasonal employment as it may deem just to candidates.

Notwithstanding anything to the contrary in this or any other provision of the charter, an employee who has been certified from a regularly adopted eligible list to a non-permanent position in a civil service classification shall be entitled to appointment to a permanent position within that same classification before the commission certifies to the appointing officer the names and addresses of persons standing higher on the list of eligibles who are not then current employees, subject to a demonstration of satisfactory job performance in the non-permanent position for a period and in the manner provided by rule of the commission. The provisions of this section as herein amended shall only be applicable to requisitions for permanent positions filled from and after January 1, 1980.

Section 8.341 is amended to read as follows:

**8.341 Removal or Discharge of Permanent, Non-Probationary Employees**

A. Any person employed under the civil service provisions of this charter, exclusive of members of the uniformed ranks of the police and fire departments as provided under Section 8.343 hereof, in a position defined by the commission as "permanent" may be removed or discharged by the appointing officer for just cause, after being provided with written notice of the charges, copies of all documentation upon which the charges are based and after an opportunity to respond to the charges before the appointing officer or his or her designee. Pending investigation of conduct involving misappropriation of public funds or property, misuse or destruction of public property, drug addiction or habitual intemperance, mistreatment of persons, immorality, acts which would constitute a felony or misdemeanor involving moral turpitude, or acts which present an immediate danger to the public health and safety the appointing officer may place the accused person on unpaid administrative leave for no more than 30 days unless the investigation shall be delayed beyond such time by the act of the accused person. When the appointing officer imposes discharge or removal he or she shall, in writing, notify the person removed or discharged of the right to appeal the discharge or removal by mailing such statement to his last known address. The employee shall have thirty days from the date of mailing of the notice to file an appeal of the matter in writing with the appointing officer. Upon receipt of a timely appeal, the appeal shall be conducted forthwith by a qualified and unbiased hearing officer who shall be employed under contract by the city and county and selected by procedures set forth in the rules of the civil service commission. The hearing officer shall publicly hear and determine the appeal, and may approve the discharge or removal, or exonerate, or suspend the accused.

If the employee is exonerated the hearing officer may, at his or her discretion, order payment of salary to the employee for the period of the discharge or removal or unpaid administrative leave, and the report of such period of discharge or removal or unpaid administrative leave shall thereupon be expunged from the record of service of such employee.

The civil service commission shall immediately be notified of the charges when made, of the action of the appointing officer to remove or discharge, of the appeal, and of the finding thereon. The finding of the hearing officer shall be final.

The civil service commission may remove or discharge an employee for any charge filed by a citizen or by any member of or authorized agent of the commission when the appointing officer neglects or refuses to take such action against the employee within 30 days of notification to the department head of the occurrence or event giving rise to the charge. Removal or discharge may be made for any cause after the employee is provided with written notice of the charges, copies of all documentation upon which the charges are based and after the employee has had the opportunity to respond to the charges before the civil service commission or its designee. The decision of the civil service commission shall be final.

Nothing in this section shall limit or restrict rules adopted by the commission governing dismissal of probationary employees, lay-offs or reduction in force or providing for the removal of any appointee who has abandoned his or her position as defined by civil service commission rule.

B. Notwithstanding the provisions of Subsection A above, a recognized employee organization and any affected city department may agree to alternative procedures, including final and binding arbitration by a neutral arbitrator jointly selected by the employee organization and the city, to deal with charges brought against individual employees, the resolution of such charges and the appropriate discipline, if any, to be imposed on the employee. Said alternative procedures shall be included in a Memorandum of Understanding between the city and the employee organization which shall be effective when ratified by the board of supervisors.

C. The effectiveness of this charter amendment is contingent upon the voters' approval at the November 5, 1991 election of an amendment adding Section 8.409 to this charter. If the amendment adding Section 8.409 to this charter is not adopted at the November 5, 1991 election, then it is the voters intent that (1) this amendment shall have no force and effect, (2) this amendment shall not become part of the charter, and (3) Section 8.341 shall continue to read as it did immediately before the November 5, 1991 election.

D. Subject to the contingency set forth in Section C above, this charter amendment shall be effective September 1, 1992. Prior to that date, Section 8.341 of this charter shall continue to read as it had immediately before the November 5, 1991 election.

Section 8.400 is amended to add subdivision (i) so that the entire section reads as follows:

**8.400 General Rules for Establishing and Paying Compensation**

(a) The board of supervisors shall have power and it shall be its duty to fix by ordinance from time to time, as provided in Section 8.401, all salaries, wages and compensations of every kind and nature, except pension or retirement allowances, for the positions, or places of

employment, of all officers and employees of all departments, offices, boards and commissions of the city and county in all cases where such compensations are paid by the city and county.

(b) The board of supervisors shall have power by ordinance to provide the periods when salaries and wages earned shall be paid provided, that until such ordinance becomes effective, all wages and salaries shall be paid semi-monthly. No salary or wage shall be paid in advance. It shall be official misconduct for any officer or employee to present or approve a claim for full-time or continuous personal service other than in the manner provided by this charter.

(c) All personal services shall be paid by warrants on the basis of a claim, bill, timeroll or payroll approved by the head of the department or office employing such service. The claims, bills or payrolls, hereinafter designated as payrolls, for salaries, wages or compensation for personal services of all officers, assistants and employees of every class or description, without regard to the name or title by which they are known, for each department or office of the city and county shall be transmitted to the civil service commission before presentation to the controller.

(d) The secretary of the civil service commission shall verify that all persons whose names appear on payrolls have been legally appointed to or employed in positions legally established under this charter. In performing such verification said secretary may rely upon the results of electronic data processing. Said secretary shall direct his attention to exception reports produced by such processing; he shall approve or disapprove each item thereon and transmit said exception reports to the controller. The controller shall not draw his warrant for any claim for personal services, salary, wages or compensation which has been disapproved by the said secretary.

(e) For the purpose of the verification of claims, bills, timerolls, or payrolls, contractual services represented by teams or trucks hired by any principal executive or other officer of the city and county shall be considered in the same manner as personal service items and shall be included on payrolls as approved by said principal executive or other officers, and shall be subject to examination and approval by the secretary of the civil service commission and the controller in the same manner as payments for personal services.

(f) The salary, wage or other compensation fixed for each officer and employee in, or as provided by this charter, shall be in full compensation for all services rendered, and every officer and employee shall pay all fees and other moneys received by him, in the course of his office or employment, into the city and county treasury.

(g) No officer or employee shall be paid for a greater time than that covered by his actual service; provided, however, that the basic amount of salary, wage or other compensation, excluding premium pay differentials of any type whatsoever of any officer or employee who may be called upon for jury service in any municipal, state or federal court, shall not be diminished during the term of such jury service. There shall, however, be



deducted from the amount of basic salary, wage or other compensation, excluding any pay premium differentials of any type whatsoever payable by the city and county to the officer or employee for such period as such officer or employee may be absent on account of jury service, any amounts which the officer or employee may receive on account of such jury service. Any absence from regular duty or employment while on jury duty shall be indicated on timeroles by an appropriate symbol to be designated by the controller.

(h) All increases in salaries or wages of officers and employees shall be determined at the time of the preparation of the annual budget estimates and the adoption of the annual budget and appropriation ordinances, and no such increases shall be effective prior to the fiscal year for which the budget is adopted. Salary and wage rates for classes of employments subject to salary standardization, as in this charter provided, shall be fixed in the manner provided in this charter. Salary and wage rates for classes of employment not subject to salary standardization, exclusive of compensations fixed by this charter, shall be recommended by the officer, board or commission having appointive power for such employments, and fixed by the budget and the annual salary ordinance. Pending the adoption of salary standards as in this charter provided, the salary and wage rates for positions subject to such standardization shall be as recommended by the officer, board or commission having appointing power for such positions and fixed by the budget and annual salary ordinance; provided that the minimum compensation for employees subject to the civil service provisions of this charter shall be not less than 50¢ per hour nor less than \$106 per month; and provided further that any compensation paid as of January 1, 1931, to an incumbent who legally held a position in the city and county service at that time, shall not be reduced so long as such incumbent legally holds such position. No compensation other than the minimum as in this section provided shall be increased so as to exceed the salary or wage paid for similar services of like character and for like service and working conditions in other city departments or in private employments, nor so as to exceed the rate fixed for such service or position in the proposed schedule of compensations issued by the civil service commission under date of April 9, 1930, except as such proposed schedule or compensation is amended as provided in this charter, or extended by the civil service commission to include classification not included therein.

(i) Notwithstanding any other limitation in the Charter to the contrary, and subject to meet and confer obligations of state law, the Mayor may request that the Board of Supervisors enact, and the Board shall then have the power to so enact, an ordinance entitling City officers or employees called to active duty with a United States military reserve organization to receive from the City the following as part of the individual's compensation: for a period to be specified in the ordinance which may not exceed 180 days, the difference between the amount of the individual's military pay and the amount the individual would have

received as a City officer or employee had the employee worked his or her normal work schedule, including any merit raises which otherwise would have been granted during the time the individual was on active duty. Any such ordinance shall be subject to the following limitations and conditions:

1. The individual must have been called into active service for a period greater than 30 consecutive days.

2. The purpose for such call to active service shall be extraordinary circumstances and shall not include scheduled training, drills, unit training assemblies, or similar events.

3. The amounts authorized pursuant to such an ordinance shall be offset by amounts required to be paid pursuant to any other law in order that there be no double payments.

4. Any individual receiving compensation pursuant to such an ordinance shall execute an agreement providing that if such individual does not return to City service within 60 days of release from active duty, or if the individual is not fit for employment at that time, within 60 days of return to fitness for employment, then that compensation shall be treated as a loan payable with interest at a rate equal to the greater of (i) the rate received for the concurrent period by the Treasurer's Pooled Cash Account or (ii) the minimum amount necessary to avoid imputed income under the Internal Revenue Code of 1986, as amended from time to time, and any successor statute. Such loan shall be payable in equal monthly installments over a period not to exceed 5 years, commencing 90 days after the individual's release from active service or return to fitness for employment, as the case may be.

5. Such an ordinance shall not apply to any active duty served voluntarily after the time that the individual is called to active service.

6. Such ordinance shall not be retroactive.

Section 8.409 is added to read as follows:

Part 1A: Rights and Obligations of Employees and Employer Concerning Collective Bargaining and Impartial Arbitration of Employment Disputes.

#### 8.409 Declaration of Policy

It is hereby declared to be the policy of the city and county of San Francisco that strikes by city employees are not in the public interest and that, in accordance with Government Code section 3507(e), a method should be adopted for peacefully and equitably resolving disputes. It is the further purpose and policy of the city and county of San Francisco that in the event the procedures herein adopted are invoked by the city and county of San Francisco or by a recognized employee organization representing employees covered by this part, except as otherwise provided herein, they shall supersede and displace all other formulae, procedures and provisions relating to wages, hours, benefits and other terms and conditions of employment found in this charter, in the

ordinances and resolutions of the city and county of San Francisco, or in the rules, regulations or actions of boards or commissions of the city and county of San Francisco.

The provisions of charter section 8.346 shall remain in full force and effect and shall not be subject to the provisions of this part.

In accordance with applicable state law, nothing herein shall be construed to restrict any legal city rights concerning direction of its work force, or consideration of the merits, necessity, or organization of any service or activity provided by the City. The City shall also have the right to determine the mission of its constituent departments, officers, boards and commissions; set standards of services to be offered to the public; and exercise control and discretion over the city's organization and operations. The City may also relieve city employees from duty due to lack of work or funds, and may determine the methods, means and personnel by which the city's operations are to be conducted.

However, the exercise of such rights does not preclude employees or their representatives from utilizing the grievance procedure to process grievances regarding the practical consequences of any such actions on wages, hours, benefits or other terms and conditions of employment whenever memoranda of understanding providing a grievance procedure are in full force and effect.

It is the declared intent of the voters that the state statutes referenced in this part be those in effect on the effective date of this part.

Section 8.409-1 is added to read as follows:

**8.409-1 Employees Covered**

These sections 8.409 through 8.409-6, inclusive, shall apply to miscellaneous employees as described in section 8.401 of this charter and including employees of San Francisco Unified School District and San Francisco Community College District to the extent authorized by state law. Any recognized employee organization, on behalf of all employees in each and every classification it represents, may elect not later than January 3, 1992 to have wages, hours, benefits and other terms and conditions of employment set pursuant to this part. Thereafter, any recognized employee organization which has remained within the coverage of sections 8.401 and 8.407 on behalf of all employees in each and every classification it represents, may elect to be covered by this part; provided however, such election shall be effective nine months from the date of that election. Any election to be covered by this part shall thereafter be irrevocable, and affected classifications will not thereafter be subject to the provisions of sections 8.401 and 8.407 of this charter. Employees in classifications represented by a recognized employee organization which does not opt to be covered by this part shall continue to be covered by the provisions of sections 8.401 and 8.407 of this charter and such classifications shall not be covered by any of the provisions of this part.

Nothing herein shall preclude a recognized employee organization from electing to include employees in classifications covered by section

8.403 of this Charter within the coverage of this part as a separate bargaining unit, provided however, that the election shall be irrevocable and such employees shall not thereafter be subject to the provisions of section 8.403.

Employees in classifications not represented by a recognized employee organization as of January 3, 1992 shall be entitled to represent themselves with the city and county over wages, hours and other terms and conditions of employment to the extent required by state law and shall not be subject to the provisions of sections 8.401 and 8.407, or the arbitration provisions of section 8.409-4 of this charter. The Mayor annually shall propose all forms of compensation for unrepresented employees including salaries, hours, benefits, and other terms and conditions of employment subject to approval or disapproval of the board of supervisors. Consistent with other provisions of this charter, the civil service commission may adopt rules and procedures relating to said unrepresented employees.

In addition, subject to the approval or disapproval of the Board of Supervisors, the Mayor may create, for employees designated as management, a management compensation package that recognizes and provides incentives for outstanding managerial performance contributing to increased productivity and efficiency in the work force. In formulating such a package, the Mayor shall take into account data developed in conjunction with the civil service commission regarding the terms of executive compensation in other public and private jurisdictions.

Section 8.409-2 is added to read as follows:

#### 8.409-2 Interim Provisions

Notwithstanding the provisions of section 8.407 of this charter, from January 3, 1992 through March 31, 1992, in return for acceptance of a wage freeze for fiscal year 1991-92, all recognized employee organizations representing classifications electing to remain within the coverage of charter sections 8.401 and 8.407 may, on a one time only basis, elect to bargain for no more than two additional paid training or furlough days per year to be effective only in fiscal years 1992-93, 1993-94 and 1994-95, and a dental plan, in recognition of the wage freeze for 1991-92. Such bargaining shall not be subject to the impasse procedures provided herein or any other provision of the charter, ordinance, or state law.

Section 8.409-3 is added to read as follows:

#### 8.409-3 Obligation to Bargain in Good Faith

Notwithstanding any other provisions of this charter, or of the ordinances, rules or regulations of the city and county of San Francisco and its departments, boards and commissions, the city and county of San Francisco, through its duly authorized representatives, and recognized employee organizations representing classifications of employees covered by this part shall have the mutual obligation to bargain in good faith on all matters within the scope of representation as defined by Government Code section 3504, relating to the wages, hours, benefits and other terms and conditions of city and county employment, including the

establishment of procedures for the resolution of grievances concerning the interpretation or application of any agreement, and including agreements to provide binding arbitration of discipline and discharge; provided, however that, except insofar as they affect compensation, those matters within the jurisdiction of the civil service commission which establish, implement and regulate the civil service merit system shall not be subject to bargaining under this part: the authority, purpose, definitions, administration and organization of the merit system and the civil service commission; policies, procedures and funding of the operations of the civil service commission and its staff; the establishment and maintenance of a classification plan including the classification and reclassification of positions and the allocation and reallocation of positions to the various classifications; status rights; the establishment of standards, procedures and qualifications for employment, recruitment, application, examination, selection, certification and appointment; the establishment, administration and duration of eligible lists; probationary status and the administration of probationary periods, except duration; pre-employment and fitness for duty medical examinations except for the conditions under which referrals for fitness for duty examinations will be made, and the imposition of new requirements; the designation of positions as exempt, temporary, limited tenure, part-time, seasonal or permanent; resignation with satisfactory service and reappointment; exempt entry level appointment of the handicapped; approval of payrolls; and conflict of interest. Nothing in this paragraph shall limit the obligation of the civil service commission to meet and confer as appropriate under state law.

Unless and until agreement is reached through bargaining between authorized representatives of the city and county of San Francisco and authorized representatives of recognized employee organizations for the employee classifications covered by this part, or a determination is made through the procedure set forth in section 8.409-4 hereinafter provided, no existing wages, written terms or conditions of employment, fringe benefits, or long-standing past practices for said employees shall be altered, eliminated or changed except in cases of emergency. This paragraph shall be effective only until the approval of the first memorandum of understanding with a covered employee organization or six months from the effective date of this part whichever occurs sooner.

During the term of an MOU, disputes regarding changes in wages, hours, benefits and other terms and conditions of employment shall not be subject to the impasse procedures provided in this part, but may be subject to grievance arbitration.

No bargaining unit may be included in more than one memorandum of understanding with the city and county of San Francisco. Departmental or bargaining unit memoranda of understanding operative on the effective date of this part shall continue in effect until their expiration date or for three years, whichever occurs first, and may be renewed thereafter only as part of a master city-wide memorandum of understanding.

Agreements reached pursuant to this part by the authorized representatives for the city and county of San Francisco, on behalf of its departments, boards and commissions, and the authorized representatives of recognized employee organizations, once adopted by the board of supervisors, shall be binding on the city and county of San Francisco, and on its departments, boards, commissions, officers and employees and on the recognized employee organizations and their successors, and all employees in classifications they represent. Except as specifically set forth in this part, said agreements shall supersede any and all other conflicting procedures, provisions and formulae contained in this charter, in the ordinances of the board of supervisors, or in the rules or regulations of boards or commissions of the city and county of San Francisco, relating to wages, hours, or other terms and conditions of employment.

Section 8.409-4 is added to read as follows:

**8.409-4 Impasse Resolution Procedures**

(a) Subject to section 8.409-4(g), disputes pertaining to wages, hours, benefits or other terms and conditions of employment which remain unresolved after good faith bargaining between the city and county of San Francisco, on behalf of its departments, boards and commissions, and a recognized employee organization representing classifications of employees covered under this part shall be submitted to a three-member mediation/arbitration board ("the board") upon the declaration of an impasse either by the authorized representative of the city and county of San Francisco or by the authorized representative of the recognized employee organization involved in the dispute.

(b) Not later than January 20 of any year in which bargaining on an MOU takes place, representatives designated by the city and county of San Francisco and representatives of the recognized employee organization involved in bargaining pursuant to this part shall each select and appoint one person to the board. The third member of the board shall be selected by agreement between the city and county of San Francisco and the recognized employee organization, and shall serve as the neutral chairperson of the board.

In the event that the city and county of San Francisco and the recognized employee organization involved in bargaining cannot agree upon the selection of the chairperson within ten (10) days after the selection of the city and county and employee organization members of the board, either party may then request the American Arbitration Association or California State Mediation Service to provide a list of the seven (7) persons who are qualified and experienced as labor interest arbitrators. If the city and county and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) persons to act as the chairperson, they shall randomly determine which party strikes first, and shall alternately strike names from the list of nominees until one name remains and that person shall then become the chairperson of the board.

(c) Any proceeding convened pursuant to this section shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The board may hold public hearings, receive evidence from the parties and, at the request of either party, cause a transcript of the proceedings to be prepared. The board, in the exercise of its discretion, may meet privately with the parties to mediate or mediate/arbitrate the dispute. The board may also adopt other procedures designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the cost of the arbitration process.

(d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the board shall direct each of the parties to submit, within such time limit as the board may establish, a package last offer of settlement on the remaining issues in dispute. The board shall by majority vote decide which package most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of employment of other employees in the city and county of San Francisco; health and safety of employees; the financial resources of the city and county of San Francisco; other demands on the city and county's resources; revenue projections; the power to levy taxes and raise revenue by enhancements or other means; budgetary reserves; and limitations on the amount and use of revenues and expenditures.

The board, by majority vote, shall enter a written decision selecting the package of one or the other party in its entirety.

(e) To be effective the beginning of the next succeeding fiscal year, an agreement shall be reached or the board shall reach a final decision no later than sixty days before the date the Mayor is required to submit a budget to the board of supervisors, except by mutual agreement of the parties. After reaching a decision, the board shall serve by certified mail or by hand delivery a true copy of its decision to the parties. Except as otherwise provided by this part, the arbitration decision shall supersede any and all other relevant formulae, procedures and provisions of this charter relating to wages, hours, benefits and terms and conditions of employment, and it shall be final and binding on the parties to the dispute. However, the decision of the board may be challenged by either party pursuant to Title 9 of part 3 of the California Code of Civil Procedure.

Within 8 working days of the board's issuance of its written decision, the authorized representative of either party may appeal from the decision of the board to the board of supervisors. The appeal shall be filed with the clerk of the board of supervisors and served on the other party by the clerk. The board of supervisors may reject the decision of the

board within 21 days of the filing of any appeal. Subject to the provisions of this section, if the board's decision is not overruled by a motion of the board of supervisors on a vote of at least two-thirds (2/3), the decision shall become final and binding. Should the board of supervisors overrule the decision of the arbitration board, the last best offer package of the other party shall become effective. Thereafter, the city and county of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action necessary to carry out and effectuate the final decision.

(f) The expenses of any proceedings convened pursuant to this part, including the fee for the services of the chairperson of the board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the proceedings, as determined by the board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.

(g) The impasse resolution procedures set forth in Section 8.409-4, or in any other provision of the charter, ordinance or state law shall not apply to any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local laws, ordinances or regulations. In the event the city acts on a matter it has determined relates to or pertains to a consent decree, or in the event the city acts to ensure compliance with federal, state, or local laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration, but may be challenged in a court of competent jurisdiction.

Section 8.409-5 is added to read as follows:

#### 8.409-5 Retirement Benefits

Notwithstanding any other provision of this part, retirement and death allowances shall continue to be set and adjusted pursuant to Chapter Five of this Article.

However, death benefits and survivor allowances, retirement allowances, adjustments to retirement allowances and adjustments to continuant allowances payable by the retirement system and based on fiscal year 1991-1992 wages and salaries covered by charter section 8.407, shall be calculated for all employees covered by charter sections 8.401 and 8.407 based on the rates certified by the civil service commission to the board of supervisors as though the 1991-1992 salary standardization ordinance vetoed by the mayor had become law. No such payment shall exceed the maximum amount permitted by section 415 of the Internal Revenue Code of 1986, as amended from time to time, or the maximum amount which would still permit the retirement system to preserve its tax-qualified status under Section 401 of the Internal Revenue Code of 1986, as amended from time to time.



After June 30, 1992, adjustments to retirement allowances and any continuant allowances shall not be greater than they would have been had the 1991–1992 salary standardization ordinance vetoed by the mayor become law.

Section 8.409-6 is added to read as follows:

**8.409-6 Employee Relations Rules**

Within sixty (60) days of adoption of this amendment, the mayor shall appoint a panel which after consultation with all parties of interest, shall review the current employee relations ordinance and make recommendations to the Board of Supervisors for such changes as may be necessary to effectuate the purposes of this part.

Such changes shall include the creation of an employee relations board. The duties of the employee relations board shall include hearing and making determinations concerning unfair labor practice charges, disputes regarding representation matters, and unit determinations.

Section 8.517-2 is added to read as follows:

**8.517-2 Early Service Retirement**

(a) The retirement board shall provide an incentive for members under sections 8.509 and 8.584 to retire early for service by increasing the member's age and credited service for both qualification and benefit computation purposes by three (3) years.

This early retirement incentive shall apply only to members who retire from service with an effective date of retirement on or after February 1, 1992 and prior to March 31, 1992. This benefit increase will not apply to a vesting retirement.

(b) No later than April 1, 1992, the retirement board shall assemble and transmit to the Mayor's office a list of all positions vacated as a result of early retirement incentive created by this section. Immediately thereafter, the Mayor shall convene a review committee consisting of the Mayor, Controller, and the General Manager, Personnel, or their designees and two labor representatives appointed by the San Francisco Labor Council who shall serve as advisory members of the committee. That committee shall review all positions identified in the aforementioned list for the purpose of determining which positions must be filled ("mandated positions") according to any one of the following criteria:

- (1) positions designated as officers by section 1.103 of this charter;
- (2) positions determined to be vital to public safety or the delivery of health and transit services;
- (3) positions which the city is under a legal duty to fill pursuant to consent decree, memorandum of understanding in effect prior to August 1, 1991, contract, state or federal law, court decisions, or other legal requirements;
- (4) positions that produce revenues or reimbursements to the city or positions funded substantially through enterprise funds or funds provided to the city through grants, or state or federal reimbursements or bond proceeds.

Thereafter, the review committee shall calculate the number of non-mandated positions that were vacated. The committee shall review each non-mandated position and make a recommendation as to which positions should be abolished. In order to maximize the cost savings benefits of early retirement, the review committee shall give special attention to reviewing those positions with salaries in excess of \$60,000.

The mayor shall receive and review the recommendations of the review committee and thereafter is authorized and directed to abolish in the 1991-92 fiscal year budget at least 500 or 50% of the vacated, non-mandated positions on the list, whichever is greater. The mayor shall effect that abolition by transmitting a communication to the controller and the board of supervisors identifying the positions that have been abolished. In addition, the City shall abolish the same positions in the fiscal year 1992-93 budget and salary ordinance. It is not the intent of this section that work performed by such abolished positions shall be contracted out.

Notwithstanding the aforementioned abolition of positions, upon the recommendation of the mayor, the board of supervisors, by a two-thirds vote, may restore to the 1991-92 budget or place in the 1992-93 budget any of the aforementioned non-mandated positions.

(c) The early retirement benefits offered under this section shall not be interpreted to apply to the provisions of Charter sections 8.509(f) and 8.584-6. The early retirement benefits under this section shall be limited by the maximum percentage limitations in charter sections 8.509(b) and 8.584-2.

The early retirement benefits under this section will be limited by section 415 of the Internal Revenue Code of 1986, as amended from time to time, and no early retirement benefits under this section will be effective if they have an adverse effect on the tax qualified status of the retirement system under section 401 of the Internal Revenue Code of 1986, as amended from time to time.

Certified to be a true copy by Doris M. Ward, President of the Board of Supervisors, and John L. Taylor, Clerk of the Board of Supervisors.

Date of General Municipal Election: November 5, 1991.

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Charter Chapter 24—City of Roseville

*Amendments to the Charter of the City of Roseville*

[Filed with the Secretary of State December 11, 1991 ]

Section 2.03 of Article II is amended to read as follows:

2.03 Assumption of office by, meeting of council, and seating of mayor and mayor pro tempore.

The council shall assume office, subject to the qualifying provisions of this charter, from and after twelve o'clock noon on the second Monday next succeeding the day of their election. The council shall hold its first meeting at that time and the councilmembers who received the highest and second highest number of votes in the latest election shall be seated as mayor and mayor pro tempore, respectively, and their terms of office shall commence upon their assumption of office and continue until the election, qualification and assumption of office of their successors following the next general municipal election.

Section 2.04 of Article II is amended to read as follows:

**2.04 Powers and duties of mayor.**

The mayor shall be the official head of the city government for purposes of ceremony and serve as the presiding officer at meetings of the council, in which meetings the mayor may speak and vote as any other councilmember. The mayor shall not have the power of veto or regular administrative duties and shall exercise such powers, and only such powers, as shall be specifically conferred or required by law. The mayor shall be recognized as the official head of the city by the courts for the purpose of serving civil process and by the governor for military purposes.

Section 2.06 of Article II is amended to read as follows:

**2.06 City Attorney.**

The council shall appoint a city attorney to serve at its pleasure. The pleasure of the council in appointing or discharging the city attorney shall be exercised by at least three affirmative votes. The attorney shall act as legal advisor to and counsel for the council and manager in matters relating to their official duties. The attorney shall represent the city in litigations in which the city is interested; shall provide written legal opinion on official matters when requested by the council or manager; shall review for legal correctness contracts, bonds, franchises, and other instruments in which the city is concerned, and perform such other duties as may be prescribed by ordinance, by administrative code, or otherwise by law. The attorney may appoint and remove deputy or assistant attorneys, which deputies and assistants shall serve at the attorney's pleasure, provided that recruitment of such attorneys shall be through the merit system.

Section 2.11 of Article II is amended to read as follows:

**2.11 Powers of manager as to administrative officers and employees.**

The manager shall have the power to appoint and remove, subject to the provisions of this charter, all administrative officers and employees of the City except those appointed by the city attorney; or may, at the manager's discretion, authorize the head of a department or office responsible to the manager to appoint and remove subordinates in such department or office. The manager shall appoint a city clerk, a city treasurer, and such other heads of administrative offices, organization

units and activities as the manager may deem necessary. The manager may combine, or personally hold, any such administrative offices herein or otherwise established, or may delegate parts of the responsibilities of the manager's office to designated subordinates.

Section 2.14 of Article II is amended to read as follows:

#### 2.14 Boards and Commissions.

The council shall by ordinance create a planning commission and a library board, and may create such other boards and commissions with respect to specific municipal functions as it may deem necessary. The council shall in each case prescribe the number, manner of appointment, length of term, and duties of members of such boards and commissions who shall serve without compensation but may be reimbursed for necessary expenses incurred in the performance of their official duties. In all cases, except that of the Personnel Board, the council shall provide for an appeal by any interested or aggrieved person from the decision of any board or commission to the council. The council's decision shall be final. All members of such boards and commissions shall be residents of the City at the time of their appointment and during their term of office. Boards and commissions existing at the time this charter is approved by the legislature shall continue to serve until action is taken by the council as provided for in this charter.

Section 3.01 of Article III is amended to read as follows:

#### 3.01 Eligibility for office.

Only United States citizens may be elected officers of the city. Only registered qualified electors who have been residents of the city or any territory legally annexed thereto at the time nomination papers are issued to the candidate pursuant to the general election law, shall be eligible to an elective city office.

Section 4.04 of Article IV is amended to read as follows:

#### 4.04 Quorum.

Three councilmembers shall be a quorum for the transaction of business at council meetings except as otherwise provided by this charter. In the absence of a quorum, a lesser number of councilmembers or the City Clerk may adjourn the meeting to a later date.

Section 4.06 of Article IV is amended to read as follows:

#### 4.06 Council rules.

The council shall determine its own rules and order of business subject to the following provisions. There shall be a journal of proceedings or minutes of all council meetings approved by the council and signed by the mayor and clerk and to which the public shall have access at all reasonable times. Within seven (7) days after any regular or special council meeting, a synopsis of the actions taken by the city council at the meeting shall be posted on a bulletin board in the city hall, and within thirty (30) days after any regular or special council meeting, minutes of

the meeting shall be prepared by the Clerk and presented to the City Council for its approval.

A vote upon all ordinances and resolutions shall be taken individually by an affirmative and negative vote and entered upon the journal, except that where the vote is unanimous it shall be necessary only to so state. There shall be no standing committees of the council.

Section 5.07 of Article V is amended to read as follows:

5.07 Ordinances granting permits to use the streets or other public places.

No exclusive permit or grant of right to occupy or use the streets or public places of the city shall ever be granted.

Section 7.02 of Article VII is amended to read as follows:

7.02 Budget Procedure.

The manager shall prepare and shall recommend a budget for the ensuing fiscal year to the council on or before the first regular meeting in June. The budget document shall present a comprehensive financial plan for the ensuing fiscal year, including at least the following information:

a. Statements of the bonded and other indebtedness of the city, including the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds.

b. Detailed estimates of all proposed expenditures for each department and office of the city, showing in addition the expenditures for corresponding items for the last preceding fiscal year, appropriations and anticipated expenditures for the current fiscal year, and reasons for recommended departures from the current expenditure pattern.

c. Detailed estimates of all anticipated revenue sources of the city, with a comparative statement of the amounts received by the city from each of such sources for the last preceding fiscal year and the amounts expected to be received for the current fiscal year.

d. A statement of the estimated balance or deficit, as of the end of the current fiscal year, for all funds.

e. Such other supporting schedules as the council may request or are otherwise required by law.

Section 7.075 of Article VII is amended to read as follows:

7.075 Utility reserve fund.

The Council shall annually set aside from the income of each of its revenue producing public utilities the following amounts and in the following order, to wit: First; An amount fully sufficient for the payment of principal, interest, reserve fund and sinking fund requirements of any revenue bonds or general obligation bonds secured in whole or in part from such utility revenues, the proceeds of which bonds have been applied to the acquisition, construction or completion of such public utilities. Second: An amount sufficient to pay or provide for the payment of maintenance and operation of such public utilities, including a reserve for maintenance and operation.

Thereafter the City Council may set aside an amount, from any surplus moneys remaining, to create and maintain a separate utility reserve fund for each of such public utility reserve fund for each of such public utilities. The amount to be set aside in such separate utility reserve fund shall not exceed a sum which, according to the estimate of the City Manager and approved by the Council, shall be sufficient to meet normal depreciation of such public utility. Such utility reserve funds, if established, shall be used for the replacement, betterment and extension of each of said public utilities and, in addition, may be used for the payment of the principal of and interest on, or retirement prior to maturity of, any revenue bonds of the City or any general obligation bonds secured in whole or in part from such public utility revenues, the proceeds of which bonds have been applied to the acquisition, construction or completion of any such utility, if and to the extent that other funds are not then available for such payment.

Section 7.13 of Article VII is amended to read as follows:

7.13 Preparation and record of bonds.

Each bond shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the City to use the proceeds thereof for any other purpose, and any officer of the City who shall violate this provision shall be deemed guilty of misconduct of office. All bonds issued by the City shall be signed by such officer or officers as may be designated by the City Council and countersigned by the clerk, under the seal of the City. The manager shall be responsible for establishing and maintaining a complete and detailed record of all bonds issued by the City. Upon the payment of any bond, the same shall be marked "Cancelled" or shall be destroyed.

Section 7.17 of Article VII is amended to read as follows:

7.17 Presentation of demands. [repealed]

Section 8.04 of Article VIII is amended to read as follows:

8.04 Personnel rules.

It is the intention of this article to provide for a merit system of employment in the city service. The council shall enact by ordinance a set of rules governing classified municipal employment which shall, among other things, provide:

a. For the classification of all positions in the classified service.

b. For open, free and competitive examinations to test the relative fitness of applicants for such positions, and or reasonable publication and public advertisement of all examinations and for promotion based upon competitive examinations or records of efficiency, character, conduct and seniority, or upon examination and record.

c. For the creation of eligible lists upon which shall be entered the names of successful candidates in the order of their standing on the examination and for the certification of those on the appropriate list to the manager or department heads for appointment to fill vacancies and for the manner in which appointments shall be made from such list.

d. For the period of time in which eligible lists shall continue in effect.

e. For a period of probation not to exceed one (1) year, both on original and promotional appointments, before the appointment is made permanent, during which time, in the case of an original appointment, the probationer may be discharged or, in the case of a promotion, returned to a position of his former classification by the head of the department of office in which employed. Provided, however, that no period of absence from work, leave, or limited duty assignment shall be credited toward completion of the probationary period, nor shall any overtime or additional work beyond normal working hours be credited towards completion of the probationary period.

f. For the rejection of candidates or eligibles who fail to comply with a bona fide occupational qualification in regard to age, sex and physical handicap or condition; or who have been convicted of a crime which adversely affects their qualification for the position applied for; or who have attempted any deception or fraud in connection with an examination for employment by the City.

g. For the employment without examination of provisional employees, in cases of emergency pending appointment from an eligible list, but no such provisional employment shall continue for more than thirty (30) days after the establishment of an eligible list for the position held, and in no event for more than ninety (90) days.

h. For transfer from one position to a similar position in the same class and grade, for reinstatement after resignation, layoff or reduction in class or grade.

i. For the discipline of employees by suspension, demotion, discharge or other actions not inconsistent with the provisions of this article.

j. For the certification to the chief finance officer of the city of names and classifications of all persons legally employed in the city service, without which certifications this officer shall not authorize the issuance of salary paychecks.

Section 8.07 of Article VIII is amended to read as follows:

8.07 Classified and unclassified services.

The employments in the city service are hereby divided into the classified and unclassified service. The unclassified service shall consist of (a) officers elected by the people and persons appointed to fill vacancies in elective offices; (b) the members of boards and commissions as provided by this charter; (c) the manager, assistant manager, attorney, deputy or assistant attorneys, and the heads of one or more departments as provided for in this charter; (d) persons employed in a professional or scientific capacity to conduct or complete a special inquiry, investigation, examination or project, not to exceed thirty-six (36) months full-time employment or equivalent without a break of at least three (3) months; (e) persons employed for a temporary, seasonal or special purpose for a period not to exceed nine (9) months full-time employment or the equivalent thereof in any twelve (12) month period without a break in

employment of at least three (3) months; (f) reserve firefighters and reserve police officers; and (g) disaster service workers whether recruited or conscripted. The classified service shall comprise all positions not specifically included in the unclassified service.

Section 8.08 of Article VIII is amended to read as follows:

8.08 Eligibility for employment. [repealed]

Certified to be a true copy by Carolyn Parkinson, Assistant City Clerk.  
Date of Municipal Election: November 5, 1991.

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Charter Chapter 25—City of Irvine

*Amendments to the Charter of the City of Irvine*

[Filed with the Secretary of State December 16, 1991.]

SECTION ONE: Section 400 is amended to read as follows:

Section 400. Mayor and City Council.

The City Council, hereinafter termed "Council," shall consist of a Mayor and four (4) Council members elected to office from the City at large in the manner provided in this Charter. The Mayor shall serve a term of two (2) years. No Mayor shall serve for more than two (2) consecutive full terms in office. Other than as set forth herein, eligibility for office, compensation, vacancies and the filling of vacancies shall be the same for the office of Mayor as provided for the office of Council member by this Charter. The Mayor, in addition to serving as the presiding officer of the Council, shall have all of the rights, powers and duties of a Council member and shall be a member of the Council.

The term of office for a Council member shall be four (4) years. Alternatively, and successively, two (2) four-year terms shall be filled at one general municipal election and two (2) four-year terms at the next such election, consistent with the sequence of terms of Council members and the Mayor existing on the effective date hereof. No Council member shall serve for more than two (2) consecutive full terms in office.

If at any general municipal election, one or more Council members whose term of office will not expire as of the election, and who would be required to vacate the office of Council member if elected to the office of Mayor, files as a candidate for the office of Mayor, the following procedure will be used to fill the contingent vacancy in the office of Council member that would arise if the sitting Council member were elected Mayor: to the extent legally possible, the ballot for the office of Council member, the official election materials and voter information pamphlet shall notify the voters that they may cast ballots for not more than three (3) candidates for the office of Council member; that at least two Council offices shall be filled by election; and that if a Council



member whose term of office will not expire as of the election is elected to the office of Mayor, the vacancy in the office of that Council member shall be filled by the candidate for Council member receiving the third highest number of votes at the same municipal election.

The term of the Mayor and a Council member shall commence at the next regularly-scheduled meeting of the Council following certification of the election results by the election official or such earlier other date as may be established by ordinance of the City Council, and he or she shall serve until his or her successor qualifies. Any ties in voting and any determination with respect to which Council member is to fill which office shall be settled by the casting of lots. No person shall hold both the office of Mayor and Council member.

The Mayor and each Council member in office at the time this Charter amendment takes effect shall continue in office until the end of the term for which he or she was elected or appointed, unless elected to the office of Mayor, and until his or her successor qualifies subject to the right of the people to recall a Council member from office as provided herein.

As used herein the term "qualifies" shall mean, in addition to the provisions of the general law, having taken the oath of office following the election and his or her term of office shall have commenced.

**SECTION TWO:** This Charter Amendment shall become effective upon filing by the Secretary of State and shall apply commencing with the general municipal election held in the City in 1992.

Certified to be a true copy by Sally Anne Sheridan, Mayor, and Nancy C. Lacey, City Clerk.

Date of Municipal Election: November 5, 1991.

