

CHARTER
of the
City of San Luis Obispo
California



Adopted on June 6, 1978
With Amendments Adopted Through
November 4, 2008
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ARTICLE I. INCORPORATION AND APPLICATION

SECTION 101. Name of the City.

The Municipal Corporation now existing and known as "The City of San Luis Obispo" shall remain and continue a body politic and corporate, as at present, in fact and in law, and by such name shall have perpetual succession.

SECTION 102. Boundaries.

The boundaries of the City of San Luis Obispo shall continue as now established until changed in a manner authorized by law.

SECTION 103. Effective Date of Charter.

This Charter shall not take effect until accepted and filed by the Secretary of State pursuant to the provisions of Section 34464 of the Government Code.

SECTION 104. General Law Applicable.

All general laws of the State applicable to municipal corporations, now or hereafter enacted and which are not in conflict with the provisions of this Charter or with ordinances or resolutions adopted in pursuance of this Charter, shall be applicable to the City.

SECTION 105. Amendments.

This Charter may be amended in accordance with the provisions of the Constitution and laws of the State of California.

SECTION 106. Definitions.

When used in this Charter the masculine gender includes the feminine and neuter. The present tense includes the past and future tenses, and the future, the present. The singular number includes the plural, and the plural, the singular. "Shall" is mandatory and "May" is permissive. "Oath" includes affirmation.

The word "City" wherever it occurs in this Charter, means the City of San Luis Obispo, and every Commissioner, Commission, Board, Officer, Employee, wherever mentioned in this Charter means the Commissioner, Commission, Department, Board, Officer, or Employee, as the case may be, of the City of San Luis Obispo. The word "Council" when used in this Charter means the Council of the City of San Luis Obispo.

SECTION 107. Conflicts.

Any municipal ordinance, resolution, or motion duly approved by the City Council which is in effect at the time this Charter is made effective shall continue in force unless it is in conflict with any provision of this Charter, at which time it shall become null and void.

SECTION 108. Validity of Charter.

If any section, subsection, sentence, clause or phrase of this Charter is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining separable portions of this Charter. The people of the City of San Luis Obispo hereby declare that they would have adopted this Charter and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or void.

SECTION 109. Violation of Charter.

The violation of any provision of this Charter shall be deemed a misdemeanor, and may be prosecuted by the authorities of the City in the name of the people of the State of California, or may be redressed by civil action, at the option of said authorities. The maximum penalty upon conviction for the violation of any provision of this Charter shall be a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding one (1) year or both such fine and imprisonment. Any person sentenced to imprisonment for the violation of a provision of this Charter may be imprisoned in the County jail of the county in which the City of San Luis Obispo is situated. The City Manager shall be responsible for the enforcement of the provisions of the Charter.

ARTICLE II. FORM AND POWERS OF MUNICIPALITY

SECTION 201. Form of Government.

The municipal government provided by this Charter shall be known as the "Council-Mayor-City Manager" form of municipal government.

SECTION 202. Governing Body.

All power herein granted to and vested in the City of San Luis Obispo shall, except as herein otherwise provided, be exercised by a Council to be designated the Council of the City. The Council shall be the governing body of the City and, subject to express limitations of this Charter, shall be vested with all powers of legislation in municipal affairs adequate to a complete system of local government consistent with the Constitution and laws of the State of California.

SECTION 203. Powers of City.

The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the constitution and laws of the State of California. It shall also have the power to exercise any and all rights, powers and privileges heretofore or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution and laws of the State of California. The enumeration in this Charter of any particular power shall not be held to be exclusive of or any limitation upon this general grant of power.

SECTION 204. Organization of City Government.

After obtaining and considering the recommendations of the City Manager, the Council shall provide by ordinance or resolution, not inconsistent with this Charter, for the powers and duties of all officials and employees of the City and for the organization, function, conduct, and operation of the various departments of the City and may provide for the creation of additional departments, divisions, offices, and agencies, and for their consolidation, alteration, or abolition.

SECTION 205. Consolidation of Functions.

The Council may transfer or consolidate functions of the City government to or with appropriate functions of the State or County government, or may make use of such functions of the State or County government, and in case of any such transfer or consolidation, the provisions of this Charter providing for the function 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 or resolution establishing such transfer or consolidation. Any such transfer or consolidation may be repealed in like manner.

ARTICLE III. MUNICIPAL ELECTIONS

SECTION 301. Procedure.

Unless otherwise provided by ordinance hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exists or may hereafter be amended.

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 303. Special Municipal Elections.

All other municipal elections that may be held by authority of this Charter, or of general law, or by ordinance, shall be known as special municipal elections.

SECTION 304. Initiative, Referendum and Recall.

The provisions of the Elections Code of the State of California, as the same now exists or may hereafter be amended governing the initiative, referendum and recall of municipal officers, shall apply to the use thereof in this City insofar as the provisions of the Elections Code are not in conflict with this Charter.

ARTICLE IV. ELECTIVE OFFICIALS

SECTION 401. Enumeration.

The elective officers of the City of San Luis Obispo shall be a Mayor and four Council Members each of whom, including the Mayor, shall have the right to vote on all questions coming before the Council.

SECTION 402. Election at Large.

The Mayor shall be elected at the general municipal election on a general ticket from the City at large.

The Council Members shall be elected at the general municipal election from the City at large, two being selected biennially.

SECTION 403. Eligibility for Office.

No person shall be eligible for election to, or to hold, the office of Mayor or Council Member of said City unless said person is and shall have been a resident thereof, or of territory legally annexed thereto, on or prior to the date of such election or appointment, for at least thirty (30) days next preceding said person's election thereto or appointment to fill a vacancy therein, and is an elector thereof at the time of such election or appointment.

SECTION 404. Terms of Office.

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

SECTION 405. Limitation of Terms.

Neither the Mayor nor any member of the Council shall serve in the same office for more than eight (8) years in succession; provided, however, that any time in office resulting from a partial term which is less than one-half (1/2) the length of the full term for that office, shall not be considered.

SECTION 406. Vacancies.

An elective office becomes vacant when the incumbent thereof dies, resigns, is removed from office under recall proceedings, is adjudged insane, convicted of a felony, or of an offense involving a violation of the Mayor or Council Member's official duties, or ceases to be a resident of the City, or has been absent from the State without leave granted by the City Council for more than sixty (60) consecutive days, or fails to attend the meetings of the Council for a like period without being excused there from by said body.

A vacancy in the Council shall be filled for the remainder of the unexpired term, if any, at the next regular municipal election following not less than seventy-two (72) days upon the occurrence of the vacancy, but the Council by a majority vote of its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term or new term takes office. If the term still has two (2) years until expiration at the time of the next regular municipal election, the election to that seat shall be separated from the election for the other Council candidates. If the Council fails to fill the vacancy within thirty (30) days following its occurrence, it shall call a special municipal election to fill the vacancy, to be held not sooner than ninety (90) days or not later than one hundred and fifty (150) days following the occurrence of the vacancy. The election shall be governed by the provisions of Article III.

A person elected to fill a Council vacancy for an unexpired term shall take office on the first Tuesday following his election. Notwithstanding any other provisions of this Charter, a minority of the members of the Council may fill vacancies on the Council by appointment in the event that a majority of the Council seats becomes vacant.

SECTION 407. Mayor - Powers and Duties.

The Mayor shall preside at all meetings of the City Council and perform such other duties consistent with the office as may be imposed by the Council or by vote of the people. The Mayor shall be entitled to, and must vote when present, but shall possess no veto power. As presiding officer of the Council, the Mayor will faithfully communicate the will of the Council majority to the City Manager in matters of policy. The Mayor shall be recognized as the official head of the City for all ceremonial purposes.

SECTION 408. Mayor Pro Tempore

The Council shall elect one of its members to be Vice Mayor. During the temporary absence or disability of the Mayor, the Vice Mayor shall act as Mayor Pro Tempore. In case of the temporary absence or disability of both the Mayor and Vice Mayor, the Council shall elect one of its members to be Mayor Pro Tempore. In case of vacancy in the office of Mayor, the Vice Mayor shall act as Mayor until such vacancy can be filled as provided in this Charter.

SECTION 409. Council Member to Hold No Other Office.

No member of the Council shall hold any other municipal office or hold any office or employment, the compensation of which is paid out of the municipal monies; nor be elected or appointed to any office created or compensation of which is increased by the Council, while a member thereof, until one year after the expiration of the term for which elected.

SECTION 410. Compensation.

The Mayor and each Council Member shall receive compensation for services payable according to the regular City payroll schedule, with the Mayor receiving greater compensation than the other Council Members.

Compensation for Mayor and Council Members shall be reviewed biennially in even-numbered years. When warranted, said compensation may be adjusted by Council resolution, to be effective the first full pay period in January of the year following the review. The compensation rate may be revised by the electorate by initiative.

Mayor and Council Member expenses incurred for official business shall be reimbursed.

ARTICLE V. COUNCIL POWERS AND PROCEDURES

SECTION 501. General Powers of the Council.

Subject to the provisions and restrictions contained in this Charter and the delegation of power, if any, to any person, Officer, Board, or Commission, the Council shall have the power in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and which are not specifically forbidden by the Constitution and laws of the State of California, or which now or hereafter it would be competent for this Charter to specifically enumerate.

No enumeration or specific statement herein of any particular powers shall be held to be exclusive of, or a limitation of, the foregoing general grant of powers.

SECTION 502. Meetings of Council.

The Council shall provide by ordinance for the time and place of holding its meetings and the manner in which its special meetings may be called. Public interest and convenience shall be the primary considerations when decisions are made as to time, location, and frequency.

Except as otherwise provided by law, all meetings of the Council shall be open to the public.

SECTION 503. Quorum.

A majority of the Council Members shall constitute a quorum for the transaction of business.

SECTION 504. Rules of Procedure.

The Council shall determine its own rules of procedures.

SECTION 505. Voting.

The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council. Upon the request of any member, the ayes and noes shall be taken and recorded on any vote. All members, when present, must vote, except in the case of a recusal due to a conflict of interest. Failure or refusal to vote shall be construed as an affirmative vote.

SECTION 506. Majority Rule.

No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative vote of at least three (3) members of the Council.

SECTION 507. Administering Oaths: Subpoenas.

Each member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council. The Council shall have the power and authority to compel the production of evidence before it. 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.

SECTION 508. Limitations.

No member of the Council shall be appointed to or serve as a voting member of any City Board, Committee, Commission, or Authority, whether composed of citizen volunteers, City employees, or a combination of both. This is not to be construed as prohibiting members of the Council from serving on Committees or subcommittees of the Council itself, or of agencies representing other levels of government.

ARTICLE VI. LEGISLATIVE ACTIONS

SECTION 601. Method of Action by Council.

All action by the Council shall be taken only by means of ordinance, resolution, or oral motion duly made and passed.

Ordinances that prescribe rules applicable generally within the jurisdiction shall become a part of the Municipal Code and so remain until amended or voided. All municipal laws relating to taxation or to possible criminal action against an offender shall be in the form of ordinances.

Resolutions shall be serially numbered and filed sequentially in the office of the City Clerk.

Oral motions shall be recorded only in the minutes of any regular or special meeting of the Council.

SECTION 602. Requirements of Ordinances.

(A) With the sole exception of ordinances which take effect upon adoption referred to in this article, no ordinance shall be passed by the Council on the day of its introduction nor within five (5) days thereafter, nor until its publication at least once in full in a newspaper of the City of San Luis Obispo at least three (3) days before its adoption; and in case of amendment being made thereto before the final adoption of the ordinance, the amended portion or portions of said ordinance must in like manner be republished at least one (1) day before its adoption as amended, provided that no less than a full subsection shall be published. The correction of typographical or clerical errors shall not constitute an amendment within the meaning of the foregoing sentence.

(B) The publication of ordinances as required by subdivision (A) may be satisfied by the publication of a summary of the proposed ordinance in lieu of publication of the full text as required in subdivision (A). At the time the proposed ordinance is introduced, the Council shall determine whether the full text of the ordinance shall be published or whether a summary shall be published; if the Council fails to so determine, the full text shall be published. If the Council determines that a summary shall be published, the summary shall be approved by the City Attorney. A copy of the full text of the proposed ordinance shall be on file in the office of the City Clerk on and after the first business day following its introduction, and shall be available to any interested member of the public.

SECTION 603. Enactment.

The enacting clause of every ordinance passed by the Council shall be: "Be it ordained by the Council of the City of San Luis Obispo." The enacting clause of every ordinance initiated by the people shall be: "Be it ordained by the People of the City of San Luis Obispo."

SECTION 604. Effectiveness.

Except as otherwise provided in this Charter, every ordinance and every measure passed by the Council shall go into effect at the expiration of thirty (30) days after its final passage, unless otherwise provided in said ordinance or measure; provided, however, that no such ordinance or measure shall go into effect in less than thirty (30) days from its final passage. But ordinances declared by the Council to be necessary as emergency measures as hereinafter provided, ordinances relating to public improvements, the cost of which is to be borne wholly or in part by special assessments, and taxing ordinances, may go into effect at the will of the Council.

SECTION 605. Emergency Legislation.

Any ordinance declared by the Council to be necessary as an emergency measure, for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at once at the same meeting if passed by at least four (4) affirmative votes.

SECTION 606. Amending Ordinances.

No ordinance shall be amended by reference to its title, but the subsections thereof to be amended shall be re-enacted at length as amended; and any amendments passed contrary to the provisions of this section shall be void.

SECTION 607. Repeal.

No ordinance or section thereof shall be repealed except by an ordinance adopted in the manner provided in this Charter. This is not to prohibit the voiding or expiration of any ordinance when such voiding or expiration is provided for in the ordinance itself.

SECTION 608. Codification of Ordinances.

Any or all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled and codified in accordance with the provisions of the laws of the State of California as the same now exist or may hereafter be amended.

Detailed regulations pertaining to the construction of buildings, plumbing and wiring, fire prevention and similar matters, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided by State law.

SECTION 609. Violation of Ordinances.

The violation of any ordinance adopted and published by the City Council shall constitute a misdemeanor unless by ordinance it is made an infraction, provided that the City Attorney may elect to prosecute any misdemeanor as an infraction. Both misdemeanors and infractions may be prosecuted or may be redressed in the manner provided by the general law of the State.

ARTICLE VII. APPOINTIVE OFFICIALS

SECTION 701. General Description.

The officials of the City of San Luis Obispo shall consist of a City Manager and a City Attorney. Such officials shall be appointed by and may be removed only by the affirmative votes of a majority of the members of the Council. All other officials and department heads of the City shall be appointed by and may be removed by the City Manager.

SECTION 702. Duties of Officials and Employees.

After obtaining and considering the recommendations of the City Manager, the Council shall provide in a manner not inconsistent with this Charter, for the powers and duties of all officials and employees of the City.

SECTION 703. City Manager.

The City Manager shall be the administrative head of the government of the City. As such, the City Manager shall be responsible to the Council for the efficient implementation of its policy and effective administration of all the affairs of the City government that the office controls. Any action, determination or omission of the City Manager or staff shall be subject to review by the Council but no individual Council Member or the Mayor shall overrule, change or modify any such action, determination or omission except by affirmative vote of at least three (3) members of said Council at a duly constituted session.

The City Manager shall advise and make recommendations to the Council concerning any conditions or governmental situations that need Council direction or policy determination.

The City Manager will insure that the Council, as a whole or as individuals, is permitted timely and complete freedom of access to requested information.

SECTION 704. Qualifications.

The City Manager shall be chosen on the basis of administrative qualifications; need not be a resident of the City or the State at the time of appointment, but during tenure in office shall reside within the City.

SECTION 705. Eligibility of Council Members.

No member of the City Council shall, during the term for which elected or appointed, or for one year thereafter, be eligible to hold the position of City Manager.

SECTION 706. Combining of Offices.

Where the positions are not incompatible, the Council may combine in one person the powers and duties of two or more offices created or provided for in the Charter.

SECTION 707. Nepotism.

The Council shall not appoint to a salaried position under the City government, any person who is a relative by blood or marriage within the third degree of any one or more members of such Council, and neither shall any department head or other officer having appointive power appoint any

relative of the Council or themselves within such degree to any such position. Nothing herein shall prevent the City Manager from supplementing the provisions of this section.

SECTION 708. Equal Opportunity Employment.

All persons seeking employment with the City and all City employees shall be treated equally and without discrimination prohibited by Federal, State or local laws.

SECTION 709. Employment Policy.

The City Council shall adopt Personnel Regulations by ordinance or resolution, prescribing hiring, discharge and performance standards for Council appointees, department heads, and other appointive officials.

No official appointed by the City Council shall be terminated within the three (3) months following a municipal election. No official subject to appointment by the City Manager shall be terminated within the three (3) months immediately following the appointment of a new City Manager. Any notice of termination, transfer, or demotion shall state the effective date of the action and a copy shall be filed with the Human Resources Department.

SECTION 710. Oath of Office.

Every official of the City, before entering upon the duties of the office, shall take the oath of office as provided for in the Constitution of this State, and shall file the same with the City Clerk.

SECTION 711. Compensation of Officials and Employees.

The compensation of all City officials and employees, except as otherwise provided in this Charter, shall be by salary to be fixed by ordinance or resolution. No official or employee shall be allowed any fees, perquisites, emoluments, rewards or compensation for any work performed as an official or employee, aside from the salary or compensation as fixed by the Council, but all fees received in connection with official duties shall be paid into the City Treasury.

SECTION 712. Official Bonds.

The Council shall, by ordinance or resolution, determine what officials and other persons in the service of the City shall give bond either of an individual type or be included in a master bond, for the faithful performance of their duties and/or honesty, and shall fix the amounts of such bond or bonds, and each of such officers and other persons shall before entering upon the duties of office or employment, execute a resolution, including in the same bond the duties of all offices of which the official or person is made, by this Charter or otherwise, ex officio incumbent. Such bonds must be examined by the City Attorney and approved by the City Council. All bonds when approved shall be filed with the City Clerk, except the City Clerk's bond, if any, which shall be filed with the City

Manager. All the provisions of any law of this State relating to the official bonds of officials as then existing shall apply to such bonds, except as herein otherwise provided. In all cases where surety company bonds are approved by the Council, the premium therefore shall be paid by the City.

ARTICLE VIII. FISCAL ADMINISTRATION

SECTION 801. The Fiscal Year.

The fiscal year of the City shall commence upon the first day of July of each year, or at such other time as may be fixed by ordinance.

SECTION 802. Annual Budget.

On such date in each year as shall be fixed by the Council, the City Manager shall send to the Council a careful estimate, in writing, of the amounts, specifying in detail the objects thereof required for the business and proper conduct of the various departments, offices, Boards and Commissions of the City, over which the office has control, during the next ensuing year. The City Manager shall also at said time submit to the Council an estimate of the amount of income from all sources of revenue, exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation.

SECTION 803. Public Hearing on the Budget.

After reviewing the proposed budget as submitted by the City Manager and making such revisions as it may deem advisable, the Council shall determine the time for holding of a public hearing, and shall cause a notice thereof to be published not less than ten (10) days prior to said hearing by at least one insertion in a newspaper in the City of San Luis Obispo. Copies of the proposed budget shall be available for inspection by the public at the office of the City Clerk at least ten (10) days prior to said hearing. At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the proposed budget at which interested persons desiring to be heard shall be given such opportunity.

SECTION 804. Adoption of the Budget.

After the conclusion of the public hearing the Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and thereafter it shall adopt the budget with revisions, if any. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the various departments or activities therein described. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered. At any meeting after the adoption of the budget, the Council may amend or supplement the budget by motion adopted by a majority vote of the Council.

SECTION 805. Grants and Subsidies.

Sufficient funds may be budgeted by the Council for grants, subsidies, contributions, subventions and the like to economic, promotional, environmental, cultural, or other agencies whose operations are unrelated to those of the City but who contribute largely to the quality of life of the City. Such funds shall be allotted only after a public hearing on consideration of an application by the requesting group or agency. Such application shall include complete justification of the need for the requested aid.

SECTION 806. Income from Public Utilities.

All income derived from the operation and management of any public utility by the City shall be devoted exclusively to the payment of the expenses of operating, maintaining, improving, or bettering such public utility, and to the payment of any debts and interest thereon which may have been incurred for the acquiring, improving, operating, or maintaining of such utility.

SECTION 807. (Deleted - November 5, 1996 - Measure "W".)

SECTION 808. Accounts Payable.

Monies shall be drawn from the City Treasury only in the manner prescribed by ordinance of the Council.

SECTION 809. Claims Against the City.

(A) No suit shall be brought on any claim for money or damages against the City or any Board, or official thereof, until a demand for the same has been presented as herein provided and rejected in whole or in part. If rejected in part, suit may be brought to recover the whole. All claims for damages against the City must be presented to the City Clerk within the time limits prescribed by the laws of the State of California 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.

(B) The provisions of the foregoing subsection (A) shall not prohibit payment on invoice, claims for goods, wares, materials, and/or services supplied to the City, and the provisions for payment on account of said items shall be set out by an ordinance adopted by the Council.

SECTION 810. Independent Audits.

The Council shall employ, at the beginning of each fiscal year, an independent certified public accountant who, at such time or times as may be specified by the Council, at least annually, shall examine the books, records, inventories, and reports of all officials, employees, departments, and agencies who receive, handle, or disburse public funds. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the Council, one copy thereof to be distributed to each member, one each to the City Clerk, the City Treasurer, the City Manager, and City Attorney respectively, and three (3) additional copies to be placed on file in the office of the City Clerk where they shall be available for inspection by the general public for the period required by the laws of the State of California. Restricted and special assessment district funds shall be segregated in the audit report.

ARTICLE IX. PUBLIC WORKS AND CONTRACTS

SECTION 901. Public Works To Be Done By Contract.

(A) Except as provided in subsection (D) of this section, every project involving an expenditure of City monies of more than the amount specified in Section 20162 of the Public Contract Code of the State of California, as the same now exists or may hereafter be amended for the construction or improvement of public buildings, works, drains, sewers, utilities, parks, playgrounds, and streets (exclusive of projects for resurfacing, maintenance, and repair of streets) shall be let by contract to the lowest responsible bidder after notice by publication in the official newspaper by one or more insertions the first of which shall be at least ten (10) calendar days before the time for opening bids.

(B) All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified then in an amount not less than ten percent (10%) of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or specifications referred to therein, the amount of the bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund. The Council may reject any and all bids presented and may readvertise at its discretion.

(C) The Council, after rejecting bids or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the work in question may be performed better or more economically by the City with its own employees and after the adoption of a resolution to this effect by at least four (4) affirmative votes of the Council and containing a declaration of the facts constituting such urgency.

(D) Nothing in this section shall be construed to apply to any project involving the expenditure of City monies by the City for public works in cooperation with a developer or subdivider for oversized facilities or such cooperative extension or replacement of mains and appurtenances. For those projects the City shall have the authority to make funds available to the cooperating developer or subdivider through a Reimbursement Agreement as established by Council ordinance or resolution.

(E) Notwithstanding any provisions of this Charter to the contrary, the City may perform maintenance related projects using a unit price contract for all necessary labor, materials, and equipment provided such contracts are secured on a competitive basis as otherwise required by Public Contract Code Section 20128.5. The City Council shall establish by ordinance, guidelines for the award and use of such unit price contracts, and may set an amount below which the City Manager may award such contracts.

(F) Notwithstanding any provision of this Charter to the contrary, public projects, as defined by the Uniform Public Construction Cost Accounting Act, sections 22000 *et seq.* of the Public Contract Code, of one hundred thousand dollars (\$100,000) or less may be let to contract by informal procedures as set forth in Sections 22032 *et seq.* of that code. The City Council shall establish by ordinance guidelines for the use of such contracts.

SECTION 902. Collusion.

(A) Any officer or employee of the City, or of any department thereof, who shall willfully aid or assist a bidder in securing a contract to furnish labor, materials or supplies at a higher price than that proposed by any other bidder, or who shall favor one bidder over another, or who shall willfully mislead any bidder in regard to the character of the materials or supplies called for, or who shall knowingly accept materials or supplies of a quality inferior to those called for by the contract or who shall knowingly certify to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount or different kind of materials or supplies than has been actually received, any of the above which is to the detriment of the City, shall be deemed guilty of malfeasance and shall be removed from office.

(B) If at any time it shall be found that the person to whom a contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties for the purpose of preventing any other bids being made, then the contract so awarded shall be null and void, and the Council shall advertise for a new contract for said work, or provide for such public work to be done by the City.

(C) If at any time it shall be found that the person to whom a contract has been awarded has colluded with any other party or parties, including a City officer or employee, during the administration of the contract, then the contract so awarded shall be null and void and any funds paid pursuant to it shall be returned to the City. Any City officer or employee guilty of such collusion to the detriment of the City may be prosecuted pursuant to State law or charged with a misdemeanor

for violation of this Charter.

SECTION 903. Purchases of Supplies and Equipment.

The City Council, by ordinance or resolution, shall adopt policies and procedures, including appropriate bidding regulations, governing purchases of supplies and equipment. Purchases of supplies and equipment shall be made only in accordance with the adopted policies and in accordance with all provisions of law governing the same.

The City Council also shall by ordinance or resolution adopt policies and procedures for contracting for personal services. Such personal services shall be contracted for only in accordance with the adopted procedures and in accordance with all provisions of law governing the same.

SECTION 904. Abridgement of Contract.

Inasmuch as a contract is a legal document attesting to the terms of an agreement providing for an exchange of services for a mutually-agreed-upon compensation in return, each separate deletion, modification, or addition shall be completed in writing, signed by authorized representatives of the contractor and the City, and filed with the City Clerk within thirty (30) calendar days.

Any willful abridgement of any provision of a contract, without a written memorandum as required above, shall be considered a breach of contract and a misdemeanor.

SECTION 905. Progress Payments.

Any contract may provide for progressive payments if the ordinance or resolution authorizing such work includes such a provision. No progressive payments may be provided for or made at any time which with prior payments, if there have been such, shall exceed in amount at any time ninety percent (90%) of the value of the labor done and the materials used up to that time, and no contract shall provide for or authorize or permit the payment of more than ninety percent (90%) of the contract price before the completion and acceptance of the work, unless otherwise required by Federal Law.

SECTION 906. Sale or Lease of City Property.

The City Council, by ordinance or resolution, shall adopt policies and procedures that shall be applicable to the sale or lease of City property.

SECTION 907. Exemptions.

Nothing in this article shall be construed to apply to the acquisition or purchase of natural gas, telephone service, electricity, electric power or electric energy by the City for any use or purpose.

SECTION 908. Development of Annexed Lands.

Lands annexed to the City may only be developed at a time and in a manner consistent with the General Plan adopted by the City and as may be amended from time to time by the Council.

SECTION 909. Use of Reliability Reserve.

As identified in the Water Management Element of the General Plan, the City shall strive to acquire additional water supplies as a "reliability reserve" to protect the City from future water shortages. Once the City has acquired a portion or all of the reliability reserve, the additional water supply shall only be used to meet City needs during unpredictable changes such as a new worst case drought, loss of one of the City's water sources, contamination of a source, or failure of a new source to provide projected yield, and not to allow additional development.

ARTICLE X. LICENSES AND FRANCHISES

SECTION 1001. Granting of Franchises.

The City Council is empowered to grant by ordinance a franchise to any person, firm or corporation, whether operating under an existing franchise or not, to furnish the City and its inhabitants with transportation, communication, terminal facilities, water, light, heat, power, refrigeration, storage, or any other public utility of public service, and to use the public streets, ways, alleys, and other places, as the same now or may hereafter exist, for the construction and operation of plants, works, or equipment necessary or convenient for traversing any portion of the City for the transmitting or conveying of any service elsewhere. The City Council may prescribe the terms and conditions of any such grant. It may also provide, by procedural ordinance, the method of procedure and additional terms and conditions for making such grants, subject to provisions of this Charter. The City Council may, by ordinance or resolution, establish fees or charges for the granting of licenses or franchises.

SECTION 1002. Resolution of Intention, Notice, and Public Hearing.

Before granting any franchise, the City Council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to

the granting thereof may appear before the City Council and be heard thereon. It shall direct the City Clerk to publish said resolution at least once within fifteen (15) days of the passage thereof in a newspaper in the City of San Luis Obispo. The time fixed for such hearing shall not be less than twenty (20) or more than sixty (60) days after the passage of said resolution. At the time set for the hearing, the City Council shall proceed to hear and pass upon all protests, and its decision thereon shall be final and conclusive. Thereafter, it may grant or deny the franchise, subject to the right of referendum of the people.

SECTION 1003. Term of Franchise.

Every franchise shall state the term for which it is granted, which, unless it is indeterminate as provided for herein, shall not exceed thirty-five (35) years. No franchise may be renewed until three (3) years before its term expires. A franchise grant may be indeterminate, that is to say, it may provide that it shall endure in full force and effect until the same, with the consent of the Public Utilities Commission of the State of California, shall be voluntarily surrendered or abandoned by its possessor, or until the State of California or some municipal or public corporation, thereunto duly authorized by law, shall purchase by voluntary agreement or shall condemn and take, under the power of eminent domain, all property actually used and useful in the exercise of such franchise and situated within the territorial limits of the State, municipal or public corporation purchasing or condemning such property, or until the franchise shall be forfeited for non-compliance with its terms by the possessor thereof.

SECTION 1004. Grant to be in Lieu of All Other Franchises.

Any franchise granted by the City with respect to any given utility service shall be in lieu of all other franchises, rights, or privileges owned by the grantee, or by any successor of the grantee to any rights under such franchise, for the rendering of such utility service within the limits of the City as they now or may hereafter exist, except any franchise derived under Section 19 of Article XI of the Constitution of California as said section existed prior to the amendment thereof adopted October 10, 1911. The acceptance of any franchise hereunder shall operate as an abandonment of all such franchises, rights, and privileges within the limits of the City as such limits shall at any time exist, in lieu of which such franchise shall be granted. Any franchise granted hereunder shall not become effective until written acceptance thereof shall have been filed by the grantee thereof with the City Clerk. Such acceptance shall be filed within ten (10) days after the adoption of the ordinance granting the franchise and when so filed, such acceptance shall constitute a continuing agreement of such grantee that if and when the City shall thereafter annex, or consolidate with, additional territory, any and all franchises, rights, and privileges owned by the grantee therein, except a franchise derived under said constitutional provision, shall likewise be deemed to be abandoned within the limits of such territory.

SECTION 1005. Eminent Domain.

No franchise grant shall in any way or to any extent impair or affect the right of the City to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing herein contained shall be construed to contract away or to modify or to abridge either for a term or in perpetuity the City's right of eminent domain with respect to any public utility. Every franchise grant shall reserve to the City the right to purchase the property of such utility either at an agreed price or a price to be determined in a manner to be prescribed in the grant, or in the procedural ordinance hereinabove mentioned. In fixing the price to be paid by the City for any utility, no allowance shall be made for franchise value (other than the actual amount paid to the City at the time of the franchise acquisition), goodwill, going concern, earning power, increased cost of reproduction, severance damage, or increased value of right of way.

SECTION 1006. Duties of Grantee.

By its acceptance of any franchise hereunder, the grantee shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant or by procedural ordinance, and shall further agree to:

(A) Comply with all lawful ordinances, rules, and regulations theretofore or thereafter adopted by the City Council in the exercise of its police power, governing the construction, maintenance, and operation of its plants, works, or equipment;

(B) Pay to the City on demand the cost of all repairs to public property made necessary by any of the operations of the grantee under such franchise;

(C) Pay to the owner on demand the cost of all repairs to private property made necessary by any of the operations of the grantee under such franchise;

(D) Indemnify and hold harmless the City and its officials from any and all liability for damages proximately resulting from any operations under such franchise;

(E) Remove and relocate without expense to the City any facilities installed, used and maintained under the franchise if and when made necessary by any lawful change of grade, alignment, or width of any public street, way, alley, or place, including the construction of any subway or viaduct; and

(F) Pay to the City during the life of the franchise, a percentage, to be specified in the grant, of the gross annual receipts of the grantee within the limits of the City, or such other compensation as the City Council may prescribe in the grant.

The City Manager shall be responsible for the enforcement of all provisions of the grant.

SECTION 1007. Violations.

The exercise by any person, firm or corporation of any privilege for which a franchise is required, without procuring such franchise, shall be a misdemeanor, and each day that such condition continues to exist shall constitute a separate violation.

ARTICLE XI. PERSONNEL ADMINISTRATION

SECTION 1101. Rules and Regulations.

After obtaining and considering the recommendations of the City Manager, the Council shall provide by ordinance or resolution, not inconsistent with this Charter, for personnel rules and regulations governing all City employees.

SECTION 1102. Personnel Board.

The Council shall establish a Personnel Board consisting of five (5) members whose duties shall be advisory only.

SECTION 1103. Political Activities.

The political activities of all City employees shall conform to pertinent provisions of the Federal and State laws.

SECTION 1104. Employee Candidacy for Public Office.

Nothing in Section 1103 shall be construed to prevent any full-time employee from seeking election or appointment to public office. Upon becoming a candidate for elective office for the City of San Luis Obispo, any such person shall request and be granted a leave of absence, without pay, to remain in effect during the period of time such person is a candidate.

SECTION 1105. Retirement.

The City Council shall be authorized to enter into a contract with the Board of Administration of the Public Employees' Retirement System of California that shall include all employees of the City of San Luis Obispo. Should the contract at any time be broadened, the City Council may have the contract amended to provide the improved coverage.

The Council may terminate the contract or negotiate another contract with reduced employee coverage with the Board of Administration of the Public Employees' Retirement System only upon authority approved by a majority vote of the electorate.

SECTION 1106. Reserved for Future Use.

SECTION 1107. Impartial and Binding Arbitration For San Luis Obispo Police Officers Association and San Luis Obispo Firefighters Association, IAFF Local 3523, Employee Disputes.

(A) Declaration of Policy. It is hereby declared to be the policy of the City of San Luis Obispo that strikes by firefighters and police officers are not in the public interest and should be prohibited, and that a method should be adopted for peacefully and equitably resolving disputes that might otherwise lead to such strikes.

(B) Prohibition Against Strikes. No City of San Luis Obispo firefighter or police officers shall willfully engage in a strike against the City. Any such employee against whom the City brings charges of failing to report for work as part of a strike shall be subject to dismissal from his or her employment in the event the charges are sustained upon conclusion of the proceedings that are required by law for the imposition of disciplinary action upon said employee.

(C) Obligation to Negotiate in Good Faith. The City, through its duly authorized representatives, shall negotiate in good faith with the San Luis Obispo Police Officers Association and/or the San Luis Obispo Firefighters Association, IAFF Local 3523, as the exclusive representatives of representation units comprised solely of employees of the police department and/or the fire department, as such units are currently constituted or as they may be amended through negotiation or arbitration as provided in this section, on all matters relating to the wages, hours, and other terms and conditions of City employment. Unless and until agreement is reached through negotiations between authorized representatives of the City and said employee organization or organizations or a determination is made through the impartial arbitration procedure hereinafter provided, no existing benefit, term or condition of employment for employees represented by the San Luis Obispo Police Officers Association and/or the San Luis Obispo Firefighters Association, IAFF Local 3523, shall be altered, eliminated or changed.

(D) Impasse Resolution Procedures.

(1) All disputes, controversies and grievances pertaining to wages, hours or terms and conditions of City employment which remain unresolved after good faith negotiations between the City and said employee organization shall be submitted to a three member Board of Arbitrators upon the declaration of an impasse by the City or by said employee organization. Upon declaration of impasse by either party, the City and employee organization shall each exchange a written last offer of settlement on each of the issues remaining in dispute. Written last offer of settlement shall be exchanged between parties within two days of the declaration of impasse.

(2) Representatives designated by the City and representatives of the employee organization shall each select and appoint one arbitrator to the Board of Arbitrators within three (3) business days after either party has notified the other, in writing, of the declaration of impasse and the desire to proceed to arbitration. The third member of the Board of Arbitrators shall be selected by agreement between the City's and the employee's organization representative within ten (10) business days of the declaration of impasse. This third member shall serve as the neutral arbitrator and Chairperson of the Board. In the event that the City and the employee organization cannot agree upon the selection of the neutral arbitrator within ten (10) business days from the date that either party has notified the other that it has declared an impasse, either party may then request the State Mediation and Conciliation Service of the State of California Department of Industrial Relations 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 the seven (7) to act as the third arbitrator, they shall have five (5) business days to alternately strike names, with the City's arbitrator striking first, from the list of nominees until one name remains and that person shall then become the neutral arbitrator and Chairperson of the Board of Arbitrators.

(3) Any arbitration proceeding 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. The Board of Arbitrators shall hold public hearings, receive evidence from the parties and cause a transcript of the proceedings to be prepared. The Board of Arbitrators may adopt by unanimous consent such other procedures that are designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the costs of the arbitration process.

(4) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the Board of Arbitrators shall direct each of the parties to submit, within such time limit as the Board of Arbitrators may establish, but not to exceed thirty (30) business days, a last offer of settlement on each of the remaining issues in dispute. The Board of Arbitrators shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds 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 the following: changes in the average consumer price index for goods and services using the San Francisco-Oakland-San Jose index, as reported at the time impasse is declared for the preceding twelve (12) months, the wages, hours, benefits and terms and conditions of employment of employees performing similar services in comparable cities; and the financial condition of the City of San Luis Obispo and its ability to meet the costs of the decision of the Board of Arbitrators.

(5) After reaching a decision, the Board of Arbitrators shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the Board of Arbitrators shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that

ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision of the Board of Arbitrators. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision of Board of Arbitrators, as it may be modified or amended by the parties, shall be publicly disclosed and shall be binding on the parties. The City and the employee organization shall take whatever action is necessary to carry out and effectuate the arbitration award. No other actions by the City Council or by the electorate to conform or approve the decision of the Board of Arbitrators shall be permitted or required.

(6) The expenses of any arbitration proceeding convened pursuant to this Article, including the fee for the services of the chairperson of the Board of Arbitrators and the costs of preparation of the transcript of the proceedings shall be borne equally by the parties. The expenses of the arbitration, which the parties may incur individually, are to be borne by the party incurring such expenses. Such expenses include, but are not limited to, the expense of calling a party's witnesses, the costs incurred in gathering data and compiling reports, and any expenses incurred by the party's arbitrator. The parties may mutually agree to divide the costs in another manner.

(7) The proceedings described herein shall supercede the dispute resolution process for the San Luis Obispo Police Officers Association and the San Luis Obispo Firefighters Association which is set forth in Sections 13.2 and 14.1 of City of San Luis Obispo Resolution No. 6620, to the extent that such language is in conflict with this amendment. Furthermore, the proceedings described herein shall supercede any language within the Employer-Employee Resolution, the Personnel Rules and Regulations, any Memorandum of Agreement with the employee associations or any written policy or procedure relating to wages, hours or other terms and conditions of City employment, to the extent that such language is in conflict with this amendment. However, nothing in this section shall preclude the parties from mutually agreeing to use dispute resolution processes other than the binding arbitration process herein set forth. Nor, does it preclude the parties from negotiating, and submitting to the arbitration process set forth herein, a grievance process, which includes a form of binding arbitration that differs from the one, set forth herein.

ARTICLE XII. BOARDS AND COMMISSIONS

SECTION 1201. Authority.

The City Council shall have the authority to establish by ordinance citizen Committees, Commissions, Boards, and Authorities as required by the State of California or as the Council deems necessary to give it advice or assistance. Such authorizing ordinances shall clearly define goals, responsibilities, and jurisdiction of such a body.

The Council shall have the authority to establish by resolution any temporary or "ad hoc" citizen Committees with limited lifespan and clearly define objectives specified in such a resolution.

SECTION 1202. Eligibility, Appointment, and Length of Terms.

All registered voters within the City, except part or full-time officials and management employees of the City, shall be eligible for appointment, and shall be selected and appointed by any method deemed appropriate by the Council. Participation on citizen committees, commissions, boards and authorities by non-registered voters or non-city residents may be permissible depending upon the nature and purpose of the advisory body, as determined by the City Council.

No Committee member shall be appointed to a term exceeding four (4) years. Committee members may be reappointed to serve additional terms.

SECTION 1203. Vacancies.

If a vacancy occurs in the body created by the Council, that vacancy may be filled by the Council for the unexpired term of such a position. A member of any such body may be removed by three (3) affirmative votes of the Council.

SECTION 1204. Bylaws and Procedures.

Each body established by ordinance shall present in writing to the Council for approval its bylaws for procedure: purpose, specific function, meetings, officers, budget, etc.

SECTION 1205. Annual Reports.

On an annual basis, each established body shall report to the Council on its activities for the preceding year, as well as its proposed activities and requested budget for the forthcoming year.

SECTION 1206. Functional Review.

Every five (5) years of a standing Committee's life, the activities of such a body shall be reviewed by a citizens' "ad hoc" Committee and recommendations presented to the Council for modification or continuation of function, or for termination. The Council, at its discretion, may refer this task to the Personnel Board.

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