RESOLUTION NO. 12-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, APPROVING A CHARTER FOR PLACEMENT ON THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012

WHEREAS, a proposed Charter was first presented to the City Council on April 16, 2012, and;

WHEREAS, the City Council conducted three public hearings on May 14, June 18, and July 16, 2012, and received public testimony regarding a proposed Charter; and

WHEREAS, the City Council modified the proposed Charter based on public testimony received and further public discussion by the City Council; and

WHEREAS, the City Council has modified the proposed draft to more closely reflect the needs and desire of the community; and

WHEREAS, the City Council finds that the proposed Charter is now in the form that is suitable for presentation to the voters of Grover Beach.

NOW, THEREFORE, BE IT RESOLVED that the proposed Charter as attached to this Resolution as Exhibit A and incorporated by reference is hereby approved.

On motion by Mayor Pro Tem Nicolls, seconded by Council Member Peterson, and on the following roll-call vote, to wit:

AYES:	Council Members Bright, Peterson, and Mayor Pro Tem Nicolls.
NOES:	Council Member Molnar and Mayor Shoals.
ABSENT:	Council Members – None.
ABSTAIN:	Council Members – None.

the foregoing Resolution was **PASSED, APPROVED**, and **ADOPTED** at a regular meeting of the City Council of the City of Grover Beach, California this 16th day of July , 2012.

/s/ John P. Shoals, Mayor

Attest:
/s/ Donna L. McMahon, City Clerk

APPROVED AS TO FORM:
/s/ Martin D. Koczanowicz, City Attorney

PROPOSED CHARTER
OF THE
CITY OF GROVER BEACH

PREAMBLE

WE THE PEOPLE of the City of Grover Beach declare our intent to restore to our community the historic principles of self-governance inherent in the doctrine of home rule. Sincerely committed to the belief that local government has the closest affinity to the people, and firm in the conviction that the maximum economic, fiscal, and policy-making independence of local government will better serve and promote the health, safety, and welfare of all the citizens of this City, we do hereby exercise the express right granted by the Constitution of the State of California to adopt this Charter for the City of Grover Beach.

CHARTER

Article I
Municipal Affairs

Section 100. Municipal Affairs
Each of the responsibilities of governance set forth and described in this Charter, and as established by the Constitutional, statutory, and common law of the State of California, is hereby declared to be a municipal affair or concern, the performance of which is uniquely to the benefit of the citizens of the City of Grover Beach.

Section 101. Powers
The City shall have all powers that a City can have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power.

Section 102. Incorporation and Succession
The City shall continue to be a municipal corporation known as the City of Grover Beach. The boundaries of the City of Grover Beach shall continue as now established until changed in the manner authorized by law. The City shall remain vested with and shall continue to own, possess, control, and enjoy all property rights and rights of action of every nature and description owned, had, possessed, controlled or enjoyed by it when this Charter takes effect. It shall be subject to all debts, obligations, and liabilities which exist against the City when this Charter takes effect. All lawful ordinances, resolutions, rules and regulations, or portions thereof, in force when this Charter takes effect and not in conflict with or inconsistent herewith, are hereby continued in force until the same have been duly repealed, amended, changed or superseded by proper authority.

Article 2
Form of Government

Section 200. Form of Government
The City shall continue to be governed under this Charter by a “Council-Manager” form of government. The City Council will establish the policy of the City and the City Manager will carry out that policy.

Section 201. Elected Officials
The City Council shall consist of four (4) members and an elected Mayor, each elected at-large, and who shall be the sole elected officials of the City. The minimum qualifications for these offices shall be as provided by state law for general law cities, except candidates for said offices shall be residents of the City for a period of at least six (6) months prior to the election and throughout his or her term**,** and any vacancy in office shall be filled in the manner provided by that law. Annually, the Mayor shall appoint a Council Member to serve as Vice Mayor, with all the duties and responsibilities of that position.

Section 202. Council Member Compensation
The salary of the Mayor and Council Members shall continue to be set pursuant to the law applicable to general law cities provided, however, that neither the Mayor nor any Council Member may receive a pension or unemployment insurance.

Section 203. Elections
Elections shall be conducted in accordance with the law applicable to general law cities. The powers of initiative, referendum, and recall shall apply in the City as they do in general law cities under the applicable provisions of state and federal law.

Section 204. Appointive Officers
The City Council shall appoint the City Manager and City Attorney, members of all Boards and Commissions, and such other subordinate officers as in their judgment may be deemed necessary, and fix their compensation.

All appointive officers shall, before entering upon the duties of their office, take the oath herein prescribed for elective officers.

No provisions of this Charter shall be construed to prohibit the adoption of an Ordinance providing for personnel, merit, civil service, or other system for the employment, tenure, discharge or retirement of employees.

Section 205. City Clerk
The City Clerk shall be the custodian of the seal of the City, and shall safely keep all books, records and other documents required by this Charter or the laws of the State to be kept and filed in his/her office. He/She shall be the Clerk of the Council. He/She shall have the power to administer oaths. It shall be his/her duty to perform all acts required of the Clerk by this Charter, by Ordinance, or by the laws of the State.

Section 206. City Attorney
The City Attorney shall be an attorney-at-law, duly admitted to practice in the courts of this State, and having practice therein at least five (5) years. He/She shall represent the City in all litigation, including the prosecution of criminal cases arising out of the violations of City ordinances. He/She shall be the legal advisor of the City Council, the City Manager, and all other officers, boards, and departments of the City, and shall give his/her opinion in writing when requested in writing by any officer or board. He/She shall draft all proposed ordinances or resolutions, when requested to do so by the City Council, and perform such other duties as may be prescribed by ordinance.

Section 207. City Manager
The City Council shall appoint a City Manager. His/Her powers and duties shall be identified and defined in a resolution or an ordinance adopted by the City Council.

Article 3
Operational Provisions

Section 300. Economic and Community Development
The City shall encourage, support, and promote economic and community development, and preserve and enhance the beach-town character of Grover Beach.

Section 301. Purchasing and Public Works Contracts
The City as a Charter City is exempt from the provisions of the California Public Contract Code and the City shall have the power to establish standards or regulations related to the purchasing of goods, property, and services including, but not limited to, the establishment of local preferences. "Public Works Contract" as used in this section, means an agreement for the erection, construction, alteration, repair or improvement of any public structure, building, road or other public improvement, of any kind. The City Council may establish by ordinance or resolution, all standards, procedures, rules or regulations to regulate all aspects of the bidding, award, and performance of any Public Works Contract.

Section 302. Prevailing Wage
No City contract shall require payment of the prevailing wage schedule unless:

(i) the prevailing wage is legally required, and constitutionally permitted, to be imposed;
(ii) required by federal or state grants pursuant to federal or state law;
(iii) the City Council does not consider the project to be a municipal affair; or
(iv) payment of the prevailing wage schedule is authorized by resolution of the City Council.

Payment of the prevailing wage schedule, if authorized hereunder, shall use the pertinent rates established by the State of California.

Section 303. The Think-Local-First Option
To the extent permitted by state and federal law, the City may establish by ordinance specified and limited bid advantages for firms based within a specified distance of the City. The City may enact such an ordinance in recognition of the fact that local firms and local employees help support the economy and quality of life of Grover Beach. The City shall establish all standards, procedures, rules or regulations to regulate all other aspects of public contracting.

Section 304. Supporting Volunteers in Grover Beach
The City seeks to support volunteers in creating a higher quality of life for Grover Beach citizens and, as such, declares itself exempt from any state laws or regulations that would make it more difficult or expensive for volunteers to participate in any community project, whether funded with City revenues or not.

Section 305. Limitation on Taxing Authority
This Charter shall not be interpreted as giving the City greater authority to raise the level of taxes or fees or to create new taxes or fees beyond the powers granted to general law cities nor to exempt the City from any procedures for raising the level of taxes or fees or for creating new taxes or fees required by the law applicable to general law cities.

Article 4
Revenue Retention

Section 400. Reductions Prohibited
Revenues raised and collected by the City shall not be subject to subtraction, retention, attachment, withdrawal or any other form of involuntary reduction by any other level of government.

Section 401. Mandates Limited
No person, whether elected or appointed, acting on behalf of the City, shall be required to perform any function which is mandated by any other level of government, unless and until funds sufficient for the performance of such function are provided by the mandating authority.

Article 5
General Laws

Section 500. General Law Powers
In addition to the power and authority granted by this Charter and the Constitution of the State of California, the City shall have the power and authority to adopt, make, exercise and enforce all legislation, laws, and regulations and to take all actions and to exercise any and all rights, powers, and privileges heretofore or hereafter established, granted or prescribed by any law of the State of California or by any other lawful authority. In the event of any conflict between this Charter and the general laws of the State of California, this Charter shall control.

Section 501. General Plan and Zoning Consistency
All zoning ordinances adopted by the City shall be consistent with the City's General Plan as required by the law applicable to general law cities, except the City Council shall not be limited in the number of General Plan Amendments the City will process and the City Council will approve per year.

Article 6
Interpretation and Amendment

Section 600. Construction and Interpretation
The language of this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of its power to govern with respect to any matter that is a municipal affair. Every reference in this Charter to state or federal law shall mean that law as it exists when this Charter takes effect or as it may thereafter be amended.

Section 601. Title
This Act shall be known as the "Home Rule for Grover Beach Charter of 2012".

Section 602. Severability
If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

Section 603. Amendment to Charter, revised or repealed
As provided by state law, this Charter, and any of its provisions, may be amended by a majority vote of the electors voting on the question. Amendment or repeal may be proposed by initiative or by the City Council.

I hereby affirm that the foregoing Home Rule for Grover Beach Charter of 2012 was submitted to a vote of, and ratified by, a majority of the voters of the City of Grover Beach at a regular general municipal election held for that purpose on November __, 2012.

_____
Mayor

ATTEST:

_____
City Clerk