

## STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL**  
**FROM: ROBERT PERRAULT, CITY MANAGER**  
**SUBJECT: FURTHER CONSIDERATION OF A PROPOSED CHARTER BALLOT MEASURE**

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### BACKGROUND

In April 2012, the City Council discussed the concept of converting the City from a General Law City to a Charter City. At the conclusion of the discussion, the City Council directed staff to develop an initial draft of a Charter for further review and discussion. The initial draft of the Charter was reviewed by the City Council on May 14, 2012 during the first of three public hearings to be held on the measure. At the public hearing, the City Council took public testimony and then provided staff with direction to modify the draft Charter. The purpose of this second public hearing is to further consider the draft Charter, review potential revisions, and provide staff with additional direction. Currently the measure is scheduled for a final public hearing on Monday, July 16, 2012. During the final public hearing in July, the Council will be asked to make a decision regarding the placement of the Charter Measure on the ballot in November 2012.

### DISCUSSION

As noted in previous staff reports a general law city, including Grover Beach, derives its authority from the powers granted to it by the laws adopted by the State Legislature. The body of state law in essence becomes the city's constitution. A Charter enacted by the voters within the municipality becomes the constitution for that municipality. Consequently, a charter affords a city greater control over its own municipal affairs. Examples of municipal affairs include: local elections, municipal officers, city contracting and bidding procedures, and local land use and zoning issues. Items of state-wide concern remain the province of the State and are not impacted by the passage of a charter. Examples of matters of state-wide concern include: vehicle regulations, the Brown Act and open meeting laws, and regulations governing state highways.

Today, a city in drafting its charter can pick and choose the municipal affairs it wishes to have greater control over and which matters to leave as defined in current state or local law. In developing the proposed draft charter (*please see Attachment 1*), staff identified the items that appeared to have the greatest benefit for the City of Grover Beach for inclusion. This initial draft was reviewed with the City Council during the meeting held on Monday, May 14, 2012. At the conclusion of the Council's discussion regarding the draft, the Council directed that additional information and/or suggested language changes be provided for the following sections:

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#### APPROVED FOR FORWARDING



**ROBERT PERRAULT**  
**CITY MANAGER**

#### Please Review for the Possibility of a Potential Conflict of Interest:

- |  |                                   |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> None Identified by Staff | <input type="checkbox"/> Bright   |
| <input type="checkbox"/> Shoals                              | <input type="checkbox"/> Molnar   |
| <input type="checkbox"/> Nicolls                             | <input type="checkbox"/> Peterson |

Meeting Date: June 18, 2012

Agenda Item No. 3

- **Section 201 Elected Officials**
- **Section 301 Public Works Contracts**
- **Section 501 General Plan and Zoning Consistency**

**Section 201 Elected Officials** – During Council discussion on this section, the City Council indicated an interest in changing the residency requirements for Council/Mayor candidates from 15 days prior to an election to six (6) months prior to the election. In keeping with Council direction, staff is recommending the following be added to this section of the Charter (added text denoted with double underline):

*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.*

**Discussion Regarding Term Limits** – At the May 14<sup>th</sup> City Council meeting, staff was directed to provide further information regarding the term limits that are currently mandated by the Grover Beach Municipal Code Section (GBMC) 2304. (Please see Attachment 3.) These limit the Council Members and the elected Mayor to two consecutive terms of service in the respective positions.

Staff opined that since the term limits were installed in the GBMC, they could be changed without voter's input. That opinion was incorrect as further research revealed that the issue of term limits was put to the voters in 1996 in Measure J, which passed by majority vote. The voter's decision was then codified into the GBMC. In order for any change to be made to Section 2304, such change must be approved by the voters.

Subsequently, when the issue of directly-elected Mayor was considered by the voters in November 2006, the question of the term of office for the Mayor was also presented. The voters voting in favor of a directly-elected Mayor selected a two-year term for that position. Again, a change to the Mayoral term would also need to be placed before the voters.

Either or both of those changes can be proposed in the new Charter for voter approval. The Council, if desired, may propose an abolishment of term limits and/or may change the length of the Mayoral term from two to four years in the text of the Charter. If the Charter is approved by a majority of voters, Section 2304 would be removed from the GBMC and the issue would be governed by the City's new Charter. An affirmative vote on that issue in the November 2012 election would not affect the current status of the current office holders. In other words, Mayor Shoals would still be governed by the current two-term limit and would not be eligible to run for the office of Mayor in November 2012. Similarly, any Council Member who has served a full two consecutive terms by the end of 2012 would not be eligible to run for re-election to the office of City Council, even if the term limits were eliminated with the adoption of a Charter.

**Section 301 Purchasing and Public Works Contracts** – the Council provided direction to incorporate the alternative language for this section as distributed at the last hearing. The alternative language has been incorporated in the revised draft per the Council direction.

**Section 501 General Plan and Zoning Consistency** - The Council suggested that changes be made to increase the number of General Plan Amendments that could be considered by the Council in any given year. Current state law limits the City's ability to process General Plan Amendments through the City Council to three (3). Staff is recommending the following addition to this section:

*All zoning 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.***

**Advantages to Further Consideration of the Charter by the Council -**

- City has greater control over municipal affairs. The enactment of a Charter serves as a firewall between the City and the State that can work to limit further erosion of local control. The City is better equipped to assert greater independence from the State both politically and financially.
- Charter adoption enables the City to operate more efficiently with greater control over its own bidding and purchasing standards, including the ability to limit the application of prevailing wage rates for locally-funded projects. Compensation for local public work should be made by the local governing body rather than Sacramento.

**Disadvantages to Further Consideration of the Charter by the Council -**

- The Charter will not be a panacea. The passage of a Charter signifies a strong effort to assert the City's independence from the State. However, only time and the City's ability to weather future State challenges will determine the Charter's success.
- As noted previously, the prevailing wage limitation, if upheld by the Supreme Court, only applies to locally-funded projects that are not of state-wide concern.

**ALTERANATIVES**

The City Council has the following alternatives to consider:

1. The City Council could decide to consider public testimony, review the recommended changes to the Charter, provide direction regarding any additional revisions, and schedule a third Public Hearing for the City Council meeting on Monday July 16, 2012.
2. The City Council could decide to consider public testimony, review the revisions, and decide not to take any further steps to effectuate the change to Charter City status.

**RECOMMENDATION**

It is recommended that the City Council consider public testimony, review the recommended changes to the Charter, provide direction regarding any additional revisions, and schedule a third Public Hearing for the City Council meeting on Monday, July 16, 2012.

### **FISCAL IMPACT**

It is expected that it will cost between \$10,000 and \$15,000 to place a Charter measure on the ballot for consideration in November. This cost includes between \$5,000 and \$7,000 researching the matter, drafting the Charter, and conducting the necessary public hearings required by state law. The remaining cost is the County's cost for the General Municipal Election and placing the measure on the ballot. Should the measure be approved, it is likely that cost savings will occur over time. The amount of savings will depend on the modification of the City's bidding and contract process and the ability to limit the use of prevailing wages for public projects. The estimated savings for qualifying projects are expected to range between 15% and 20%.

### **PUBLIC NOTIFICATION**

The agenda was posted in accordance with the Brown Act.

### **Attachments**

1. Revised Charter document
2. Chart entitled " General Law v. Charter City"
3. Grover Beach Municipal Code Section 2304
4. Additional Information Regarding Prevailing Wage and Use of Volunteers

**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 Mayor Pro Tempore, 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 two (2) 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

DRAFT

ATTEST:

\_\_\_\_\_  
City Clerk

## General Law City v. Charter City

Characteristic	General Law City	Charter City
<b>Ability to Govern Municipal Affairs</b>	Bound by the state's general law, regardless of whether the subject concerns a municipal affair.	Has supreme authority over "municipal affairs." Cal. Const. art. XI, § 5(b).
<b>Form of Government</b>	State law describes the city's form of government. For example, Government Code section 36501 authorizes general law cities be governed by a city council of five members, a city clerk, a city treasurer, a police chief, a fire chief and any subordinate officers or employees as required by law. City electors may adopt ordinance which provides for a different number of council members. Cal. Gov't section 34871. The Government Code also authorizes the "city manager" form of government. Cal. Gov't Code § 34851.	Charter can provide for any form of government including the "strong mayor," and "city manager" forms. See Cal. Const. art. XI, § 5(b); Cal. Gov't Code § 34450 <i>et seq.</i>
<b>Elections Generally</b>	Municipal elections conducted in accordance with the California Elections Code. Cal. Elec. Code §§ 10101 <i>et seq.</i>	Not bound by the California Elections Code. May establish own election dates, rules, and procedures. See Cal. Const. art. XI, § 5(b); Cal. Elec. Code §§ 10101 <i>et seq.</i>
<b>Methods of Elections</b>	Generally holds at-large elections whereby voters vote for any candidate on the ballot. Cities may also choose to elect the city council "by" or "from" districts, so long as the election system has been established by ordinance and approved by the voters. Cal. Gov't Code § 34871. Mayor may be elected by the city council or by vote of the people. Cal. Gov't Code §§ 34902.	May establish procedures for selecting officers. May hold at-large or district elections. See Cal. Const. art. XI, § 5(b).
<b>City Council Member Qualifications</b>	<p>Minimum qualifications are:</p> <ol style="list-style-type: none"> <li>1. United States citizen</li> <li>2. At least 18 years old</li> <li>3. Registered voter</li> <li>4. Resident of the city at least 15 days prior to the election and throughout his or her term</li> <li>5. If elected by or from a district, be a resident of the geographical area comprising the district from which he or she is elected.</li> </ol> <p>Cal. Elec. Code § 321; Cal. Gov't Code §§ 34882, 36502; 87 Cal. Op. Att'y Gen. 30 (2004).</p>	Can establish own criteria for city office provided it does not violate the U.S. Constitution. Cal. Const. art. XI, § 5(b), 82 Cal. Op. Att'y Gen. 6, 8 (1999).

Characteristic	General Law City	Charter City
<b>Public Funds for Candidate in Municipal Elections</b>	No public officer shall expend and no candidate shall accept public money for the purpose of seeking elected office. Cal. Gov't Code § 85300.	Public financing of election campaigns is lawful. <i>Johnson v. Bradley</i> , 4 Cal. 4th 389 (1992).
<b>Term Limits</b>	May provide for term limits. Cal. Gov't Code § 36502(b).	May provide for term limits. Cal. Const. art. XI, § 5(b); Cal Gov't Code Section 36502 (b).
<b>Vacancies and Termination of Office</b>	An office becomes vacant in several instances including death, resignation, removal for failure to perform official duties, electorate irregularities, absence from meetings without permission, and upon non-residency. Cal. Gov't Code §§ 1770, 36502, 36513.	May establish criteria for vacating and terminating city offices so long as it does not violate the state and federal constitutions. Cal. Const. art. XI, § 5(b).
<b>Council Member Compensation and Expense Reimbursement</b>	Salary-ceiling is set by city population and salary increases set by state law except for compensation established by city electors. See Cal. Gov't Code § 36516. If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. See Cal. Gov't Code §§ 53234 - 53235.	May establish council members' salaries. See Cal. Const. art. XI, § 5(b). If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. See Cal. Gov't Code §§ 53234 - 53235.
<b>Legislative Authority</b>	<p>Ordinances may not be passed within five days of introduction unless they are urgency ordinances. Cal. Gov't Code § 36934.</p> <p>Ordinances may only be passed at a regular meeting, and must be read in full at time of introduction and passage except when, after reading the title, further reading is waived. Cal. Gov't Code § 36934.</p>	May establish procedures for enacting local ordinances. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
<b>Resolutions</b>	May establish rules regarding the procedures for adopting, amending or repealing resolutions.	May establish procedures for adopting, amending or repealing resolutions. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
<b>Quorum and Voting Requirements</b>	<p>A majority of the city council constitutes a quorum for transaction of business. Cal. Gov't Code § 36810.</p> <p>All ordinances, resolutions, and orders for the payment of money require a recorded majority vote of the total membership of the city council. Cal. Gov't Code § 36936. Specific legislation requires supermajority votes for certain actions.</p>	May establish own procedures and quorum requirements. However, certain legislation requiring supermajority votes is applicable to charter cities. For example, see California Code of Civil Procedure section 1245.240 requiring a vote of two-thirds of all the members of the governing body unless a greater vote is required by charter.

Characteristic	General Law City	Charter City
<p><b>Rules Governing Procedure and Decorum</b></p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i></p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i></p> <p>May provide provisions related to ethics, conflicts, campaign financing and incompatibility of office.</p>
<p><b>Personnel Matters</b></p>	<p>May establish standards, requirements and procedures for hiring personnel consistent with Government Code requirements.</p> <p>May have "civil service" system, which includes comprehensive procedures for recruitment, hiring, testing and promotion. See Cal. Gov't Code § 45000 <i>et seq.</i></p> <p>Meyers-Milias-Brown Act applies. Cal. Gov't Code § 3500.</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, § 10(b).</p>	<p>May establish standards, requirements, and procedures, including compensation, terms and conditions of employment for personnel. See Cal. Const. art. XI, § 5(b).</p> <p>Procedures set forth in Meyers-Milias-Brown Act (Cal. Gov't Code § 3500) apply, but note, "[T]here is a clear distinction between the <i>substance</i> of a public employee labor issue and the <i>procedure</i> by which it is resolved. Thus there is no question that 'salaries of local employees of a charter city constitute municipal affairs and are not subject to general laws.'" <i>Voters for Responsible Retirement v. Board of Supervisors</i>, 8 Cal.4th 765, 781 (1994).</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, section 10(b).</p>
<p><b>Contracting Services</b></p>	<p>Authority to enter into contracts to carry out necessary functions, including those expressly granted and those implied by necessity. See Cal. Gov't Code § 37103; <i>Carruth v. City of Madera</i>, 233 Cal. App. 2d 688 (1965).</p>	<p>Full authority to contract consistent with charter.</p> <p>May transfer some of its functions to the county including tax collection, assessment collection and sale of property for non-payment of taxes and assessments. Cal. Gov't Code §§ 51330, 51334, 51335.</p>

Characteristic	General Law City	Charter City
<p><b>Public Contracts</b></p>	<p>Competitive bidding required for public works contracts over \$5,000. Cal. Pub. Cont. Code § 20162. Such contracts must be awarded to the lowest responsible bidder. Pub. Cont. Code § 20162. If city elects subject itself to uniform construction accounting procedures, less formal procedures may be available for contracts less than \$100,000. See Cal. Pub. Cont. Code §§ 22000, 22032.</p> <p>Contracts for professional services such as private architectural, landscape architectural, engineering, environmental, land surveying, or construction management firms need not be competitively bid, but must be awarded on basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of services. Cal. Gov't Code § 4526.</p>	<p>Not required to comply with bidding statutes provided the city charter or a city ordinance exempts the city from such statutes, and the subject matter of the bid constitutes a municipal affair. Pub. Cont. Code § 1100.7; see <i>R &amp; A Vending Services, Inc. v. City of Los Angeles</i>, 172 Cal. App. 3d 1188 (1985); <i>Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.</i>, 71 Cal. App. 4th 38 (1998).</p>
<p><b>Payment of Prevailing Wages</b></p>	<p>In general, prevailing wages must be paid on public works projects over \$1,000. Cal. Lab. Code § 1771. Higher thresholds apply (\$15,000 or \$25,000) if the public entity has adopted a special labor compliance program. See Cal. Labor Code § 1771.5(a)-(c).</p>	<p>Historically, charter cities have not been bound by state law prevailing-wage requirements so long as the project is a municipal affair, and not one funded by state or federal grants. <i>Vial v. City of San Diego</i>, 122 Cal. App. 3d 346, 348 (1981). However, there is a growing trend on the part of the courts and the Legislature to expand the applicability of prevailing wages to charter cities under an analysis that argues that the payment of prevailing wages is a matter of statewide concern. The California Supreme Court currently has before them a case that will provide the opportunity to decide whether prevailing wage is a municipal affair or whether it has become a matter of statewide concern.</p>

Characteristic	General Law City	Charter City
<p><b>Finance and Taxing Power</b></p>	<p>May impose the same kinds of taxes and assessment as charter cities. See Cal. Gov't Code § 37100.5.</p> <p>Imposition of taxes and assessments subject to Proposition 218. Cal. Const. art.XIIIC.</p> <p>Examples of common forms used in assessment district financing include:</p> <ul style="list-style-type: none"> <li>• Improvement Act of 1911. Cal. Sts. &amp; High. Code § 22500 <i>et seq.</i>.</li> <li>• Municipal Improvement Act of 1913. See Cal. Sts. &amp; High. Code §§ 10000 <i>et seq.</i>.</li> <li>• Improvement Bond Act of 1915. Cal. Sts. &amp; High. Code §§ 8500 <i>et seq.</i>.</li> <li>• Landscaping and Lighting Act of 1972. Cal. Sts. &amp; High. Code §§ 22500 <i>et seq.</i>.</li> <li>• Benefit Assessment Act of 1982. Cal. Gov't Code §§ 54703 <i>et seq.</i>.</li> </ul> <p>May impose business license taxes for regulatory purposes, revenue purposes, or both. See Cal. Gov't Code § 37101.</p> <p>May not impose real property transfer tax. See Cal. Const. art. XIII A, § 4; Cal. Gov't Code § 53725; <i>but see</i> authority to impose documentary transfer taxes under certain circumstances. Cal. Rev. &amp; Tax. Code § 11911(a), (c).</p>	<p>Have the power to tax.</p> <p>Have broader assessment powers than a general law city, as well as taxation power as determined on a case-by case basis.</p> <p>Imposition of taxes and assessments subject to Proposition 218, Cal. Const. art. XIIIC, § 2, and own charter limitations</p> <p>May proceed under a general assessment law, or enact local assessment laws and then elect to proceed under the local law. See <i>J.W. Jones Companies v. City of San Diego</i>, 157 Cal. App. 3d 745 (1984).</p> <p>May impose business license taxes for any purpose unless limited by state or federal constitutions, or city charter. See Cal. Const. art. XI, § 5.</p> <p>May impose real property transfer tax; does not violate either Cal. Const art. XIII A or California Government Code section 53725. See <i>Cohn v. City of Oakland</i>, 223 Cal. App. 3d 261 (1990); <i>Fielder v. City of Los Angeles</i>, 14 Cal. App. 4th 137 (1993).</p>
<p><b>Streets &amp; Sidewalks</b></p>	<p>State has preempted entire field of traffic control. Cal. Veh. Code § 21.</p>	<p>State has preempted entire field of traffic control. Cal. Veh. Code § 21.</p>
<p><b>Penalties &amp; Cost Recovery</b></p>	<p>May impose fines, penalties and forfeitures, with a fine not exceeding \$1,000. Cal. Gov't Code § 36901.</p>	<p>May enact ordinances providing for various penalties so long as such penalties do not exceed any maximum limits set by the charter. <i>County of Los Angeles v. City of Los Angeles</i>, 219 Cal. App. 2d 838, 844 (1963).</p>

Characteristic	General Law City	Charter City
<p><b>Public Utilities/Franchises</b></p>	<p>May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Const. art. XI, § 9(a); Cal. Gov't Code § 39732; Cal. Pub. Util. Code § 10002.</p> <p>May grant franchises to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city to allow use of city streets for such purposes. The grant of franchises can be done through a bidding process, under the Broughton Act, Cal. Pub. Util. Code §§ 6001-6092, or without a bidding process under the Franchise Act of 1937, Cal. Pub. Util. Code §§ 6201-6302.</p>	<p>May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Const. art. XI, § 9(a); <i>Cal. Apartment Ass'n v. City of Stockton</i>, 80 Cal. App. 4th 699 (2000).</p> <p>May establish conditions and regulations on the granting of franchises to use city streets to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city.</p> <p>Franchise Act of 1937 is not applicable if charter provides. Cal. Pub. Util. Code § 6205.</p>
<p><b>Zoning</b></p>	<p>Zoning ordinances must be consistent with general plan. Cal. Gov't Code § 65860.</p>	<p>Zoning ordinances are not required to be consistent with general plan unless the city has adopted a consistency requirement by charter or ordinance. Cal. Gov't. Code § 65803.</p>

*Excerpt from the Grover Beach Municipal Code*

Sec. 2304. Term Limits. A member of the City Council may only serve two consecutive terms in that position. If the City has an elected mayor, an elected mayor may only serve two consecutive terms in that position. The two positions (Council Member and elected mayor) are separate and an individual can serve two consecutive terms in one position and then two consecutive terms in the other. If a person is elected to the office of City Council and because of a vacancy in the office of an elected mayor, such person is appointed to fill the unexpired term of an elected mayor, such Council Member shall be deemed to be serving just the term of a City Council Member. However, if a person should be elected to the office of City Council and part way through his or her term as a member of the City Council, such person is elected mayor, then such person shall be deemed to have served his or her full term as a City Council Member upon acceptance of the office of elected mayor.

Even if a person has already served two consecutive terms in one position, such person may serve another two consecutive terms if at least twenty-three months have passed since such person last served in that same position. (Approved by electorate on November 5, 1996, pursuant to Resolution No. 96-46; Am. Ord. 08-05.)

## Additional Information Regarding Prevailing Wage and Use of Volunteers

During the last public hearing on the draft Charter, a considerable amount of discussion was focused on the proposed Prevailing Wage Section 301 and Section 304 Supporting Volunteers in Grover Beach. The following is offered as additional information.

**Section 302 Prevailing Wage** - In previous reports staff had indicated that the City's ability to limit the use of prevailing wage scales for local public projects could yield cost savings of 15-20% of total project costs. In order to further analyze potential cost benefits, staff reviewed two recently completed City projects where prevailing wage was paid:

**1. Rehabilitation of Atlantic City Avenue**

<b>Construction Cost Total =</b>	<b>\$213,460</b>
<b>Total Prevailing Wage Paid =</b>	<b>\$ 75,555 or 35% of construction cost</b>
<b>Estimated Standard Wage Savings =</b>	<b>(\$47,600) or 22% of construction cost</b>

**2. Rehabilitation of South 4<sup>th</sup> Street**

<b>Construction Cost Total =</b>	<b>\$544,202</b>
<b>Total Prevailing Wage Paid =</b>	<b>\$111,496 or 20% of construction cost</b>
<b>Estimated Standard Wage Savings =</b>	<b>(\$70,362) or 13% construction cost</b>

In the Proposed Capital Improvement Project, projects costs for FY 13 are expected to total \$3,269,213. The following projects are expected to be constructed in FY 13 with local funds:

• Grover Beach Municipal Network -	\$450,000
• Waste Water Projects -	\$100,000
• Water Fund Project -	\$ 25,000
Total Project costs	<u>\$575,000</u>

In FY 13 the locally-funded project cost amounts to 18% of all project costs. The estimated savings, if prevailing wage scale is not used, is (\$86,250).

The City's ability to retain the discretion as to when and how to apply the prevailing wage scale when constructing locally-funded projects could prove beneficial as the number and type of locally-funded projects increases.

**Section 304 Supporting Volunteers in Grover Beach** - In doing additional research on this project, staff learned that the State several years ago limited the City's ability to use volunteers to complete public works projects unless prevailing wages are paid. Later, additional legislation was adopted by the State that provided exemptions for cities in certain circumstances. This legislation is due to expire in 2016. This proposed Charter provision will permanently exempt cities from state law regulating the use of volunteers and encourages the use of volunteers in community projects.

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