



Report of the City of Fresno Charter Review Commission

February 7, 2012

Fresno, California

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EXECUTIVE SUMMARY

The Commission met from July 26, 2011 to February 7, 2012 and faithfully considered each of the twenty-three (23) items it was charged with discussing, as well as 32 additional items put forth during the deliberations.

What follows are the Commission's recommendations as to 23 Council suggested Charter revisions and numerous policy suggestions during the course of deliberations.

ABOUT THE COMMISSION

In 1993 the citizens of the City of Fresno chose to implement the Strong Mayor form of government. Fresno is one of four cities in California with the Strong Mayor format. Others are San Diego, Oakland, Los Angeles and San Francisco. This format is currently being considered by Sacramento.

Prior to the 1993 election a prior Charter Review Commission was appointed. The citizens of Fresno owe a debt of great gratitude to this Commission because it did its job very well. Appendix I is a copy of the 1992 report. Appendix II is a copy of the current Charter.

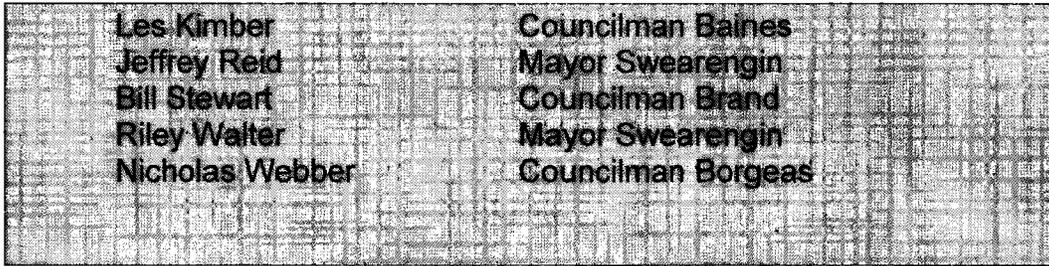
In 2010 members of the City Council decided it was time to review the Charter and consider revisions, additions and deletions to it.

Over several months the Council and Mayor debated the scope and charge of the Commission.

On November 12, 2010 the City Council voted 5 to 2 to move forward with a new Charter Review Commission. On that date the Council issued Appendix III, which is titled Resolution 2010 – 219. Appendix III is the source document given to the Commission to guide it in its deliberations, including the requirement of a super majority as to certain actions.

Thereafter each Council Member and the Mayor, independently and not in consultation with each other, appointed nine Commissioners. The appointed Commissioners were:

<u>Name</u>	<u>Appointed by:</u>
Robert Cook	Councilman Quintero
Jerry Duncan	Councilman Olivier
Daniel Fitzpatrick	Councilman Xiong
Jared Gordon	Councilman Westerlund



Many of the Commissioners had extensive experience as city council members, commissioners, as elected officials or governmental administrators. Others had community leadership experience. All were committed to effectuating the best possible governance for the City of Fresno.

The Commissioners were convened at a meeting held at City Hall on July 26, 2011 and sworn in. At the second meeting the Commission selected Bill Stewart as its Chair and Riley Walter as Vice Chair. Walter was also designated as the scribe for this Report. Dr. Stewart had also chaired the 1992 Commission.

ABOUT THE PROCESS

From July 26, 2011 to February 7, 2012 the Commission met every month. For several months meetings were held twice per month. Beginning in January, 2012 the Commission met on a weekly basis and, always in compliance with the *Brown Act*. All meetings were video recorded.

Early in the existence of the Commission it was determined that the Commissioners wished to hear from as many people from as many different communities and viewpoints as possible. An expansive net was cast and over 50 organizations were invited to provide comments to the Commission.

At virtually every meeting comments were taken from interested persons and organizations.

The listing of the persons who made presentations to the Commission or submitted written materials is shown on Appendix IV:

Of particular note, every Council Member appeared at least once to give his views to the Commission, as is shown above.

The Mayor also freely participated in the discussions and gave the Commissioners the benefit of her views, as did the City Manager.

All sessions were videotaped, recorded, and conducted in accordance with the *Brown Act*. Those recordings are available for review through the City Clerk's Office.

The City Manager, Mark Scott, was present at almost every meeting as was the City Attorney, James Sanchez. Both Mr. Scott and Mr. Sanchez contributed greatly to the discussions and deliberations.

Once all comments had been received the Commissioners then met to narrow the discussion items down into two broad groups - Charter Issues and Non-Charter/Policy Issues.

After determining which of the 23 items on Appendix III were in the nature of Charter issues, the Commission then debated and discussed each of these items. The recommendations of the Commissioners as to the 23 items are found below. The Commission then considered 32 other issues brought before it.

ISSUES CONSIDERED AS CHARTER PROVISIONS

Below are the 23 issues the Commissioners were directed to address by Resolution 2010-219. The comments of the Commission are italicized. The Resolution also allowed the Commission to consider items other than the 23 but dictated that a super majority of the Commission was required for such consideration. Items 24 – 55 are the items presented to the Commission outside the 23 items provided by the Resolution.

1. Whether the creation of an Emergency Reserve Fund is by setting aside and maintaining a percentage of General Fund appropriations.

By a unanimous 7-0 vote the Commission recommends the inclusion of the following language in the Charter:

“The City Council shall establish a Specific Reserve Management Policy to control future spending, enhance the City’s credit rating, and establish reserve policies to meet the City’s debt obligations. A supermajority vote of the Council shall be required for amendment to the policy.”

2. Whether to amend Charter Section 1233 to reduce the 20% limit on General Obligation Bonds to 10% of City assets, and to add a provision that places a limit of 10% on the net debt service for General Fund appropriations.

In consideration of the recommendations for Charter revisions shown at 1, 3 and 4 it was decided by a 7-0 vote that this item was not necessary.

3. Whether to require a super majority vote on all debt financing decisions not contained in the adoption of the annual budget by the Council.

The Commission recommends by a unanimous 7-0 vote to include the following language in the Charter:

"The City Council shall establish a debt management ordinance(s) for the purpose of issuing and managing the City's debt (including other financial obligations exceeding one year in length, except those required by state or federal law or obligations arising from contracts with the City's employees), consistent with sound financial management practices. The Controller shall certify prior to each issuance decision the specific funding source(s) for repayment of the debt and the reliability of the funding for the life of the debt. A supermajority of the City Council shall be required to amend the debt management ordinance(s), authorize debt inconsistent with the debt management ordinance(s), or to authorize debt other than as part of the adoption of a budget."

4. Whether to establish a charter section that would trigger due diligence and oversight policies, using a private sector banking model; require the City Attorney and City Manager to provide written reports to the Council and require a super majority vote to approve, for any request for financial assistance exceeding \$1,000,000.

The Commission recommends by a unanimous vote of 7-0 the inclusion of the following language in the Charter:

"The City Council shall establish an ordinance(s) regarding the procedures and scope for conducting a due diligence process for any proposed project that includes a request for direct or indirect financial assistance, including extension(s) or renewal(s) of assistance but excluding City requests for proposal(s), that exceeds \$1,000,000 or one-half percent (.5%) of the general fund revenues for the preceding fiscal year, whichever is greater. The due diligence process shall include any material financial, legal, business, legislative, and regulatory issues associated with

the proposed project. Any amendments to the ordinance(s) describing this due diligence process or approval of a proposed project that requires this due diligence process shall require approval of a supermajority of the City Council."

5. Whether the City should require a Fiscal Impact Report that includes a detailed financial analysis of wage and benefit costs and an actuarial report, if deemed necessary by the City Manager, for all Memorandum of Understanding labor agreements.

By a unanimous vote the Commission concluded this is a policy issue and recommends the Mayor and Council continue on with the Labor Management Act.

6. Whether the Council should affirm, by majority vote, the hiring of the City Manager and his/her compensation contract, assuming reasonable affirmation not be withheld.

The Commission unanimously agreed this is unnecessary. The Mayor, as chief executive of the City, should decide who will be the City Manager.

7. Whether the Charter clearly identifies the jurisdictional authority to organize and structure administrative departments lies with the Mayor, subject to Council confirmation.

By a 5-3 vote the Commission recommends the adoption of the following language for the Charter:

"The Mayor shall, in conjunction with the Chief Administrative Officer, subject to the budgetary authority of the City Council, provide for the creation of departments, divisions, offices and agencies, and for their consolidation, alteration or abolition. No office provided in this Charter to be filled by appointment by the Chief Administrative Officer may be consolidated with an office to be filled by appointment by the Council. The Council, subject to the provisions of this Charter, shall provide for the number, titles, qualifications, duties and compensation of all appointive officers and employees."

8. Whether the Charter should require annual budgets be in a two year format and also include extended projections.

The Commission unanimously agreed this is unnecessary as a Charter provision. Extended projections are already prepared and provided to the Council.

9. Whether the Mayor shall release the proposed budget to the Council at least sixty rather than thirty days prior to the beginning of each fiscal year (§ 1203).

The Commission agreed this is unnecessary as a Charter provision. Consensus was that a policy position should be taken urging release of the Mayors recommended budget at least 45 days prior to the end of the fiscal year.

10. Whether the Mayor's veto powers should extend to all legislative land use decisions (§ 605 (c)(2)).

The Commission unanimously agreed this is unnecessary as a Charter provision.

11. Whether the Mayor should have veto authority over the decisions of the Civil Service Board (§ 1002).

The Commission unanimously recommends that the Council adopt policy language urging the Mayor and Council to review policy, procedures and term limits for the Civil Service Board Commissioners.

12. Whether a separate entity instead of the Council should establish Council and Mayor compensation (§ 308).

The Commission unanimously agreed this is unnecessary as a Charter provision.

13. Whether a provision should be included in the Charter, as a counterpart to §706, that would provide that the Mayor, City Manager, and Staff shall not interfere with the execution by the City Council and of its legislative powers and duties (related to §500 et seq.).

The Commission unanimously agreed this is unnecessary and not worthy of Charter revision.

14. Whether a provision should be included in the Charter that information requests by Council be responded to by City Staff in a timely

fashion relative to the time sensitivity of the subject matter and the response be sufficiently detailed to provide an adequate answer.

The Commission unanimously agreed this is unnecessary as a Charter provision.

15. Whether Council should have the exclusive authority to appoint and remove their respective Council assistants (§ 500).

The Commissioners unanimously agree that the following language should be made a part of the Charter:

"Each Councilmember shall have the right to appoint and remove his or her own Council Assistant(s)."

16. Whether the Charter should provide that the Council Presidency is based on a rotational system with majority confirmation.

By a 7 to 1 vote the Commission concluded this need not to be made a Charter provision but does recommend the Council confirm the current policy of rotation.

17. Whether the City's campaign contribution policy should be modified (§ 309).

By a 6-2 vote the Commission recommends the following revision to the Charter:

"No Mayoral candidate, Council candidate, or any committee controlled by such person shall solicit or accept any contribution in support of such candidate's election prior to one year of the first date fixed by law for the filing of nomination papers with respect to such election, or 120 days after Council declares the results of the election, that a candidate has been elected to that office."

18. Whether the Charter should include a provision obligating City employees to report suspected illegal activities to the City Attorney's or City Manager's office.

As this is superseded by a host of federal and state laws, it is not necessary to revise the Charter to include this provision. While clearly a good idea, it is not a Charter issue.

19. Whether the Mayor should be able to maintain separate legal counsel.

On a 6-1 vote, the Commission recommends as a policy, and in the event #55 is not enacted, that the Council should budget a reasonable amount, on an annual basis, for the Mayor to engage outside, independent legal counsel and form an attorney-client relationship to provide the Mayor with confidential advice, recognizing the City Attorney is the legal representative of the City.

20. Whether a provision should be included in the Charter which would enable Council to direct the City Controller to respond to financial inquiries posed by Council without processing such inquiries through the City Manager, assuming such inquiries would not pose an unreasonable burden on staff or otherwise interfere with the City Manager's administrative service under section 706.

Consistent with several other issues presented by Resolution 2010-219, the Commission notes that the administration flows through the Mayor and City Manager and this suggested provision, like others, undermines that principle. Unanimously deleted from consideration.

21. Whether the City Controller shall submit directly to Council a quarterly financial statement (§ 804 (c)).

The Commission unanimously recommends that the Charter be revised to require a quarterly financial statement from the Controller received through and from the City Manager.

22. Whether the Controller should certify: 1) the specific funding source(s) for all newly created programs; and 2) the reliability of funding for the life of the program. In the case of defunding, where the monies are transferred.

The Commission unanimously agreed this is unnecessary as a Charter provision.

23. Whether the organizational structure and role of the RDA and the City should be examined to eliminate redundancies in services and develop a more efficient model for revitalization.

Unanimously deleted further consideration of this item.

Items 24 – 55 are those proposed by various Commissioners, Council members, citizens and organizations.

Items 24 - 55 were presented to the commissioners for consideration as Charter provisions by interested persons. Based on Resolution 2010-219 a supermajority of the Commissioners had to agree to consider these items for that action.

24. Whether the Charter should provide for reverse auctions for City purchasing.

By a 7-0 vote the Commission recommended the following be adopted as a Charter revision:

“Every contract involving an expenditure of City moneys of more than \$100,000, adjusted annually on the first of July to the nearest \$1,000 in response to changes in the National Consumer Price Index (U.S. city average for all products), for materials, supplies, equipment or for any public work of improvement shall be made only to the winning responsive and responsible bidders at a publicly noticed, competitive bidding process. The Council may by resolution or ordinance determines the procedures for such competitive bidding and define public work of improvement.”

25. Whether the Charter should include a provision for a Council financial/budget staff person appointed by and reporting to Council

The Commission unanimously agreed this is unnecessary as a Charter provision.

26. Whether new council members should be trained to adhere to stewardship standards/commitment.

The Commission unanimously agreed this is unnecessary as a Charter provision.

27. Whether the Commission should recommend a study calling for pension reform.

The City is already studying this issue so it was unanimously deleted from further consideration by the Commission.

28. Whether alternatives to Civil Service Commission should be considered.

The Commission unanimously agreed this is unnecessary as a Charter provision.

29. Whether city zoning should be consistent with adopted General Plan.

By unanimous vote it is recommended the Council adopt the following policy:

It is recommended that the Council adopt a streamlined process for initiation of rezoning consistent with a newly adopted general plan.

Following the adoption of the 2035 General Plan, the City should allow for pro-active rezone for all requesting property owners to rezone their property to be consistent with the zoning designation(s) in the 2035 General Plan and would streamline the rezone process for numerous property owners on a voluntary basis, with property effectively being rezoned even before an entitlement application was submitted to the City.

A pro-active rezone concept could be accomplished by including an appropriate policy in the 2035 General Plan, giving notice of the City's amortization ordinance for non-conforming uses, and following the current zoned district amendment procedure in the Fresno Municipal Code. The rezone proceeding could be initiated by City Council resolution with the property owners either acting as co-applicants or consenting to the rezone process in writing.

The period in which property owners are allowed to pro-actively rezone their property in conformance with the 2035 General Plan should be the longest reasonable period consistent with CEQA and the environmental impact report associated with the 2035 General Plan. All such requests should be processed solely on an administrative, shall-issue basis for a fee approximately equal to the anticipated cost to process such a request.

Subsequent to the end of the pro-active zoning period, the City should designate an administrative rezoning officer to approve rezoning of property consistent with the zoning designation(s) in the 2035 General Plan, upon the property owners' request, and without requiring any additional approval from the Planning Commission or City Council.

30. Whether to return to Council-Manager form of government.

The Commission unanimously agreed this is unnecessary as a Charter provision.

31. Whether to have Office of Independent Review to be a Charter mandated position with specific reporting requirements, duties and authorities.

By a majority vote, as a policy it is recommended that the existing position be budgeted and filled. It is also recommended that the City request the District Attorney to reinstitute making investigations.

32. Whether the City Charter should permit proposals from private companies to provide City services.

Unanimously deleted from consideration – with the notation that this is already permitted.

33. Whether to make it a requirement that all positions within Mayor's Office to be accounted for to reflect true cost.

The Commission unanimously agreed this is unnecessary as a Charter provision.

34. Whether to have Mayor and Council to make a concerted effort to represent Fresno diverse population in appointments to Boards and Commissions.

The Commission unanimously recommends adoption of the following as a Charter provision:

“The City and its elected officials are encouraged to make appointments to City boards, commissions and committees that reflect the city’s rich cultural, geographic and social diversity.”

35. Whether to expand City Council membership from seven to nine given the increase in population.

Commission felt that the people recently voted on this item to amend the City Charter to not increase council membership and recommends the Council consider expansion to nine members when City population reaches 750,000.

36. Whether to have two year moratorium on City employees conducting business with City.

Unanimously approved to be deleted from consideration.

37. Whether the Charter should prohibit privatization of City services without a vote of the people.

By a vote of 8-1 the Commission approved deletion from further consideration.

38. Whether to create a single Department of Transportation including bus service and airport, etc.

The Commission unanimously agreed this is unnecessary as a Charter provision.

39. Whether to make the City prohibited from participating in a joint powers entity with, or otherwise providing leases or other credit enhancements to, the Redevelopment Agency.

By vote of 7-1 the Commissioners voted against this as a Charter revision.

40. Whether to have City be prohibited from participating in a joint powers entity with, or otherwise providing leases or other credit enhancements to the Redevelopment Agency, unless the RDA Board appoints the City Manager as the ED of the Agency, and unless state law is amended to include the Mayor as a Member of the RDA Board, consistent with the treatment accorded the mayors in Charter Cities in the County of San Bernardino pursuant to Health and Safety Code Section 33200(a) (and with the powers accorded such Mayors in such provision).

By vote of 7-1 the Commissioners voted against this as a Charter revision.

41. Should the Charter define "materiality"?

Having concluded it is impossible to define "materiality" with the requisite precision, it was concluded unanimously to delete this item from consideration.

42. Whether to have the Charter define what elements at a minimum should be in the annual budget document submitted by Mayor/CM to Council.

It is recommended that the City Council and Mayor devise a policy as to what should be the presentation structure of the annual budget, reflecting the best practices known and available.

43. Additional citizen suggested items. Items 43, 44, 45, 46, 47, 48, 49, 50 and 51 were unanimously approved to be deleted from consideration. Item 44 was considered in conjunction with Items 1-4. As to Item 48, see below.

43. Building/development fees should pay for new schools prior to homes being constructed in an area.

44. The City of Fresno should eliminate the Fresno Police Department and contract with the Fresno County Sheriff to provide law enforcement in the City, transitioning current officers to the County. (see item 45)

45. Increase efforts to force the federal government to enforce immigration laws for illegal immigrants arrested by the Fresno Police Department.

46. Prohibit the City from investing in or engaging in public/private partnerships, including loan or other financial guarantees, but excluding the operations of the RDA.

47. Eliminate any connection with SEIU.

48. Reduce and/or eliminate City regulatory limits on building and construction, particularly in regards to permitting. The commenter specifically suggested we consider the recent changes the City of Sanger has done for its permitting process.

The Commission recommends by a 7-1 vote that the City Council and Mayor examine the permit process to reduce the steps and barriers to issuances of permits to streamline the process and keep the approved steps to the minimum legal standard.

49. Prohibit Section 8 housing near Fresno State, via zoning or otherwise.

50. Impose a moratorium on new housing project permits until the market can digest the existing housing inventory.

51. Recommend that the City address traffic light timing issues created by either recent syncing/timing of lights on major arteries and/or by rapid transit busses. I believe the commenter wanted more demand timing of traffic lights on the non-synced arteries, instead of timing periods where no cars are crossing an intersection.

52. Whether the Charter should require consolidation of services.

By a 7-0 vote this item was deleted from further consideration.

53. Whether the Charter should provide for the Mayor as President of the Council.

By a vote of 5-3 this item was deleted from consideration.

54. Whether the Charter should require an independent body to draw council boundaries.

The Commission unanimously voted 8-0 to delete this from consideration.

55. Whether the City Charter should be amended to give the Mayor authority to appoint the City Attorney.

By a vote of 6-3, a supermajority of the Commissioners voted to include a Charter revision consistent with the recommendation of the 1992 Commission as follows:

“The Mayor shall hire and fire the City Attorney subject to the approval of a majority of the City Council.”

By way of explanation, the supermajority was the opinion that the recommendation of the 1992 Commission was sound then and if enacted now it would better serve the interest of the City as a whole, and reduce/eliminate numerous areas of friction and promote greater independence in representation and advice.

POLICY OBSERVATIONS AND RECOMMENDATIONS

Over the course of the discussion, deliberations and testimony, the Commission observed that there are a number of general comments that might be made which could aid the counsel in improving the governments of the city. Below are a series of such observations and recommendations.

1. NON-CHARTER RECOMMENDATIONS:

At the outset, the Commission was well aware of the requirement that consideration of any item outside the original list of 23 items set out on Appendix II, required a super majority vote. Nonetheless, over the course of the Commission's existence and deliberations, it became apparent that there were numerous items that, although not per se charter level, were of important policy level consideration and deserving of comment.

The below listing is fairly general in nature and is intended to be advisory and worthy of discussion by the Council and Mayor at the policy level. The points made below are not in any order of importance.

1.1 Strong Mayor Format

During the discussions interest in a Council Manager form of government was suggested by a few however a majority of the Commissioners were not in agreement with this. However, it was plain that the Council may be having some reluctance to migrate toward full implementation of the Strong Mayor Format.

In reviewing the original Little Hoover Commission Report and the Report of the 1992 Commission, the majority of the Commissioners felt this issue had been well stated in the 1992 Report wherein it was said:

“The Committee feels that the Mayor, as the single official elected City-wide, must be given the authority to compel legislative action and to subdue, by veto, any action conceived which has as its results the denigration of effective governance.”

“The Mayor should be considered not only as a presiding officer and ceremonial officer, but as the leader in setting agendas. Local governance must rely on a popularly elected Mayor; authority to perform must be provided and power to initiate action must be included.”

The Commission understands that human nature tends to resist giving up perceived prerogatives and power, but for effective governance the agenda should be set by the Mayor and the policies set by the Council, followed by implementation by the administration. The tensions over these roles should be lessened for the good of the City. Micro management by the Council is inconsistent with the above quote from the 1992 Report.

1.2 Role of City Attorney

A majority of the Commissioners perceived there is considerable tension between the Executive Branch and Legislative Branch relative to the role and function of the City Attorney's Office. The majority perceives that the Mayor cannot obtain independent, objective, confidential advice from the City Attorney, who reports directly to the Council, and leads to

potential conflicts. It is also clear that from time-to-time, it is necessary for the Mayor to have access to confidential, objective, independent advice without going through the City Attorney's Office.

The Commission noted that the 1992 Commission recommended that the City Attorney report to the Mayor, not Council. This recommendation was not followed, which gives rise to the current situation and conflict.

A majority of the Commission, thus, believe that the Mayor should have access from time to time to confidential, independent legal advice without going through the City Attorney's Office, with such advice that is not subject to disclosure to either the City Attorney or Council, and a funding mechanism should be budgeted for this advice.

At the same time, it should be remembered that the City Attorney is the attorney for the City of Fresno as a corporate body, with the corresponding duties and responsibilities.

1.3 Growing Pains

It is also apparent to the Commission that there are "growing pains" as the City seeks to sort out what the Strong Mayor form of government should look like. This is most apparent in matters involving decisions as to whether a particular item is administrative or legislative.

Concurring with the 1992 Commission, the current Commission's view is that the Council should set policy and approve budgets that reflect policy decisions, and leave the implementation of the policies to the Administration.

The Council has more than ample power to see the policies are carried out through various resolutions and budgets, but care should be taken to avoid micro-management of the Administration.

Examples of this problem include the suggestion that the Mayor "not interfere with legislative powers and duties", whether the Council should be able to directly control the City Controller, and etc. Another example is control over the City's departmental structure. The City Manager should have the ability to structure administrative services in the most efficient manner possible, and the Council should not be involved in the structuring, except as a policy or budgetary matter.

A primary reason for moving to the Strong Mayor format of government, which was approved by a majority of the citizens, was to utilize a professional full-time City Manager who is expert in such matters,

and should be given leave to structure the administrative departments as the Administration believes is in the best interest of the City as a whole.

1.4 Composition of Commissions

Although not raised by Resolution 2010-219 giving the charge to the Commission, the Commissioners do recommend that all future appointments to boards, commissions and etc. be reflective of the entire community so that the people of Fresno feel the appointees on such bodies are truly representative of the interests of all of the citizens. As noted above in Item no.34, the Commission recommends that the Charter be amended to include the following language:

“The City and its elected officials are encouraged to make appointments to City boards, commissioners and committees that reflect the City’s rich cultural, geographic and social diversity.”

1.5 General Policy of Commission

Throughout the deliberations it was generally agreed that the adage of “If it ain’t broke don’t fix it” should apply. While many of the ideas proposed had merit, unless it was perceived there was a current or looming problem the item was generally deleted from consideration.

1.6 Future Charter Review Commission

The Commissioners noted that they were each appointed by an elected representative consisting of members of the City Council and the Mayor. It was felt that in the future it would be wise for the elected leaders to appoint a Nominating Committee, akin to what happened with the 1992 Commission, so that the Nominating Committee makes the recommendations as to future Commissioners to review the Charter. It is also recommended that the Charter be reviewed not less often than every 10 years and those future charges to the Commission stress that the Commission should consider deletions from the Charter as well as additions.

Moreover, the Commission recommends that the future commissioners and Councils should be wary of cluttering up the Charter with unnecessary provisions that can be better addressed at the policy level. The Charter should be viewed as a flexible document reflecting the broader governance of the City and not be a repository of micro management intended to inflexibility tie the hands of future Councils, or

give elected representatives freedom from calling or addressing the hard questions they were elected to address.

CONCLUSION

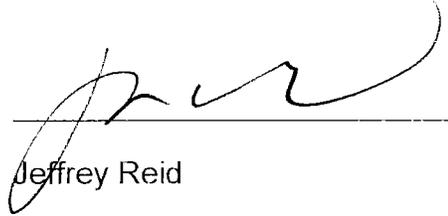
The Commissioners have been privileged to discuss, consider and debate changes in the governance of the City of Fresno and present their conclusions and recommendations to the Council and Mayor and submit this report for further consideration and action by the City Council.

The undersigned members of the Charter Review Commission certify that the preceding report is an accurate account of the actions of the Commission during its four months of hearings and deliberations.

February 7, 2012



Robert Cook



Jeffrey Reid



Jerry Duncan



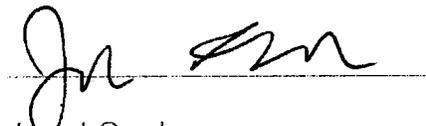
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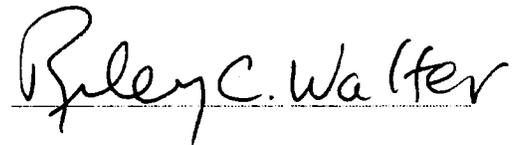
Daniel Fitzpatrick



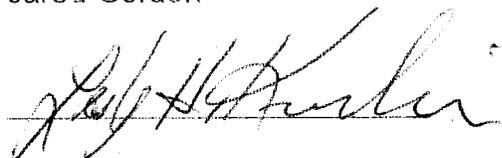
Bill Stewart



Jared Gordon



Riley Walter



Les Kimber

APPENDICES

Appendix I is a copy of the 1992 report.

Appendix II is a copy of the current Charter.

Appendix III is titled Resolution 2010-219.

Appendix IV is the list of presenters.

Appendix I

1992 Report of the City of Fresno Charter
Review Committee to the Fresno City Council

Report of the

CITY OF FRESNO

CHARTER REVIEW COMMITTEE

to the

FRESNO CITY COUNCIL

November 3, 1992

**CITY OF FRESNO
CHARTER REVIEW COMMITTEE**

Bill F. Stewart
Chairman

Leonel Alvarado

Marn J. Cha

Roger J. Flynn

Rutherford B. Gaston

Debra J. Kazanjian

Consuelo Sterling Meux

Hugo Morales

Ida Parrott

Nominating Committee

Juan Arambula

Lewis S. Eaton

Harold H. Haak, Ph.D.

Honorable Annette LaRue

Judith L. Soley

We note in sadness the passing of Lewis S. Eaton,
who initially met with us and gave us our charge.
We dedicate this report to him.

FOREWORD

The members of the Charter Review Committee were first presented to the Fresno City Council on July 21, 1992. The formation of the committee was a direct result of the recommendations of the Little Hoover Commission; the blue ribbon Nominating Committee which selected the Little Hoover Commission also served as the Nominating Committee for the selection of Charter Review Committee members.

Our specific charge was "to recommend a government structure that will efficiently and effectively manage the City from now and into the year 2020." Within this charge, we were also asked to recommend the advisability of adding one or more council districts, and the method of electing council members from each district, including current districts. The Little Hoover Commission has specifically addressed the issue of Charter Section 809; this Committee's charge did not include a review of that section of the Charter.

The committee consisted of nine members--one from each council district and three at-large members. On July 15, 1992, the Nominating Committee held an initial meeting with the members selected to serve on the Charter Review Committee, after which the committee met alone for the first time and selected Bill Stewart as their chairman.

At its first full meeting, the Committee felt it was very important to submit our recommendations to the Council in time to allow the Council to give them due consideration and to place them for inclusion on the March, 1993, ballot. After consulting with City staff, we concluded that our report must reach the City Council by its November 3, 1992, meeting which, coincidentally, was election day.

As a result of this time line, the Committee sought to acquire the most research and citizen input it could in the time available to us. Subcommittees were formed as follows: The Academic/Research Committee consisted of Dr. Marn Cha; the Citizen Input Committee consisted of Consuelo Meux, Hugo Morales and Bud Gaston; the Official Input Committee consisted of Leonel Alvarado and Ida Parrott; the Finance Committee consisted of Roger Flynn and Dr. Bill Stewart; the primary responsibility of writing the final report was given to Debra Kazanjian. Dr. Bill Stewart; the primary responsibility of writing the final report was given to Debra Kazanjian. Dr. Bill Stewart presided over all of our meetings.

Beginning in August, 1992, and continuing on a regular basis through the end of October, 1992, the committee met and gathered information to allow us to form our conclusions. We met with a panel of academicians to review the current literature and philosophies pertaining to our charge; we met with the City Manager, Mayor and members of the City Council; we met with various citizens, citizens' groups and other local officials.

We reviewed the City Charters and charter review reports of other California cities. Committee member Bud Gaston, while on his own private vacation, interviewed public officials from the cities of Atlanta, Georgia and Pittsburgh, Pennsylvania as to their form of government and method of election. We reviewed the 1992 City of Fresno Statistical Abstract and numerous other research materials provided to us by Dr. Cha, the city Manager's office, the League of California Cities and the Fresno League of Women Voters.

In our meetings with citizens and citizens' groups, we received several ideas to improve city government and citizen participation. One idea that was consistently raised was the possibility of reviving neighborhood councils. We also heard testimony from noncitizen residents about their need to participate in the political process; the possibility of neighborhood councils might help meet such a need.

The Committee had no budget when it was initially constituted and City budget constraints precluded any allocation for this purpose. The Committee solicited donors from the community, who generously funded the committee's expenses.

The membership of the Charter Review Committee represented a variety of viewpoints, reflecting the Council's desire to make it broadly representative of the whole community. The scope and nature of our charge required us to deal with a number of controversial issues. Nevertheless, an atmosphere of professionalism and collegiality pervaded our work.

Each of the recommendations of this Committee emerged after careful study and consideration; all have withstood the test of frank and open discussion. The recommendations faithfully carry out the charge given to this Committee to propose changes that will take our municipal government into the 20th Century.

PRINCIPAL RECOMMENDATIONS

FORM OF GOVERNMENT

BACKGROUND

Originally, the City Manager form of government evolved out of the reform movement in the United States in the late 19th and early 20th century as a response to widespread corruption. Pursuant to our City charter, Fresno's Mayor is elected at large, presides over the Council and is a voting member of the council. The Mayor has no veto power, appoints members of boards and commissions subject to confirmation by the Council, and is recognized as the official head of the City.

Our charter further provides that the six Council members are elected by district and constitute the governing body of the City. The City Manager is a professional, who serves as the Chief Administrative Officer and is the head of the administrative branch of the City government; he/she serves at the pleasure of a majority of the Council. The Council-Manager form of government is the most commonly used form of government in the country today.

In reviewing the Charter, the Committee felt very strongly that the Charter should not be read nor revised with certain personalities in mind. Rather, the only criteria for our research and recommendations would be the charge given to us, to wit: "To recommend a government structure that will efficiently and effectively manage the City from now and into the year 2020."

The overwhelming majority of our research, interviews, personal observations, and consideration of Fresno's future growth led us to the conclusion that our current form of government is not best suited to lead us into the 20th Century. The Little Hoover Commission Report emphasized the need for the Mayor and Council to share a common "Vision" of what Fresno should be as the turn of the century approaches. Fresno's rapidly changing population size, diversity and economic demands require decisive leadership and a government framework that allows that leadership.

Under our current Council-Manager form of government, decisive leadership by the Mayor and City Manager is extremely difficult because all members of the Council and the Mayor constantly want the full and undivided attention of the City Manager. Fresno's past record indicates that the average Manager's tenure is three years, which does not give rise to the opportunity to develop a common "Vision" with the Council.

The Committee feels that the Mayor, as the single official elected citywide, must be given the authority to compel legislative action and to subdue, by veto, any action conceived which has as its results the denigration of effective governance.

The Mayor should be considered not only as a presiding officer and ceremonial officer, but as the leader in setting agendas. Local governance must rely upon a popularly elected Mayor; authority to perform must be provided and power to initiate action must be included.

Recommendations

The Committee strongly recommends that the City amend its charter to adopt a Strong Mayor form of government only as long as specific checks and balances delineated below are given to the Council. The Strong Mayor form of government suggested herein is not meant to be synonymous with conjured images many have of big city politics in the East, which are associated with corruption and patronage. Rather, the Strong Mayor form we recommend allows the Mayor to articulate a vision, to have a professional manager to help implement the vision, and a City Council vested with certain powers to hold the Mayor's increased powers in check. Some argue that the Council-Manager form of government can work if the personality of the Mayor is that of a "strong leader." As set forth above, we do not believe that the City is best served if our recommendations consider the personalities of any public officials. We are, instead, suggesting a structural change to insure that our government is not driven by a personality but is, instead, driven by a process.

Under the Strong Mayor form of government recommended below, the traditional responsibilities of a professional City Manager would remain. The City Manager would retain the power to ensure that the City Charter and Ordinances are enforced, exercise control over all departments, appoint all department heads, assist the Mayor in preparing the budget, establish financial and accounting records, establish a central purchasing system, advise the Mayor of the City's financial affairs, and perform such other duties as prescribed by the Charter or required of him/her by the Mayor. It is important that the City Manager retain these traditional duties so that the City may continue to be well-managed in an efficient and productive manner.

Specifically, we recommend the following changes to our form of government, to be voted on in the march, 1993 city-wide elections, but not to be implemented until the next city-wide mayoral election four years from March, 1993:

Mayor

Fresno should adopt a Strong Mayor form of government.

The Mayor would not sit as a voting member of the City Council.

The Mayor would be recognized as the executive head of City government.

The Mayor would be assigned responsibility for human relations leadership in the community.

The Mayor would be required to develop an annual municipal legislative program for presentation to the Council and would be authorized to develop and propose other legislative proposals to the Council from time to time.

The Mayor would prepare or cause to be prepared the proposed annual city budget, and would submit the same to the Council for their deliberation and approval.

The Mayor would not directly supervise any City department. A professional City Manager would directly supervise all operations of City departments.

The Mayor would be authorized to appoint members of boards, commissions and permanent committees. Said appointments would be confirmed by a majority of the Council.

The Mayor would be given the power of veto in all matters which must be passed by the City Council; the mayor must exercise his/her veto within ten (10) days of passage of a measure, otherwise the measure becomes effective without his/her signature; the Council shall have thirty (30) days from the date of a veto to override it by a two-thirds (2/3) majority.

The Mayor would be elected at large.

The Mayor would provide the liaison between the City Manager and the Council, fostering a sense of cohesion among Council members and educating the public about the needs and prospects of the City.

The Mayor would hire and fire the City Manager, City Attorney and City Clerk, subject to the approval of a majority of the City Council.

City Manager

The City Manager would be a professional, pursuant to the same qualifications of a City Manager now contained in Section 701 of the Charter of the City of Fresno.

The City Manager, City Attorney and City Clerk would be hired and fired by the Mayor, subject to the approval of a majority of the City Council.

The City Manager would continue to be the head of the administrative branch of the City government.

The City Manager should retain the right to hire and fire all major department heads and division heads; all executive-level and policy making-level employees should remain exempt from the Civil Service System.

The City Manager would continue to retain those powers granted him/her under Section 705 of the current Charter, except as otherwise specifically modified by the recommendations contained herein

ELECTION SYSTEM

Background

Currently, all six Council members are elected by district. By City Ordinance, the allowable population within each Council district ranges from a minimum of 60,541 persons to a maximum of 66,913 persons. The State of California has recently announced that the January 1, 1992, City of Fresno population is 382,362 persons. It is estimated that Fresno's population will be at 500,000 by the year 2000. This year's required analysis by City staff of the population distribution of the six Council districts found that, due to Fresno's rapid growth, in-migration and annexation activity, Districts 4, 5 and 6 were not in conformance with the population criteria of Article 2 of the Fresno Municipal Code. The Council was in the process of changing district boundaries to comply with the Municipal Code at the time our research was being conducted.

Pursuant to the terms of the Voting Rights Act, most communities now adopt some form of district elections. The concept of district elections helps provide comprehensive neighborhood-based representation to all of the City's residents. District elections provide a way to encompass and integrate a diverse population mix into the political life of the City. Groups which see little or no chance of

affecting outcomes of a city-wide election may become dispirited. Moreover, resentment at exclusion can grow. Opinion is split on whether the costs of organizing a local campaign are much less than for a city-wide campaign. Further, legitimate policy concerns may go unexpressed and unrepresented if the Council reflects only a relatively homogeneous majority bloc of voters.

Notwithstanding the merits of district elections, at-large election advocates argue that district elections, while solving the problem of providing the opportunity for representation to minorities, fosters a system where Council members cannot rise above the parochial interests to look to the needs of the city as a whole. At-large devotees also point out that their system can broaden minority representation by increasing a minority group's influence over a larger number of City Council races than possible under a strictly single-member district system. The fact that district-based and at-large Councilmembers represent different constituencies causes a wider range of policy issues to be discussed at Council meetings. The result is that all Council members have a more representative picture of what is going on throughout the city.

Recommendations

The Committee felt that it was imperative to maintain district elections by at least the current six districts. The committee also felt that at least three more Council members should be added to accommodate Fresno's growth and to facilitate the Strong Mayor form of government. The three additional Council members would be elected by district. It was the strong feeling of the Committee that no additional Council districts be added if the Council does not accept our recommendation to change to a Strong Mayor form of government.

The following, then, are recommended changes to our election system to be voted on in the March, 1993 city-wide elections, but not to be implemented until the next city-wide mayoral election four years from March, 1993:

City Council

The City Council would retain all powers not otherwise specifically provided by law or by City Charter and not otherwise specifically modified by the recommendations herein.

The City Council would be increased to nine members; the Mayor would not serve on the Council.

New Council Districts would be drawn, each having approximately the same population and all nine Council members would be elected by district.

The Chairperson of the council would be elected by majority vote of the Council members and would serve as the Mayor Pro-Tem in the absence of the Mayor. He/she would still vote at Council meetings when serving in the absence of the Mayor.

OTHER RECOMMENDATIONS

While the committee was not specifically charged with review of certain charter provisions, it nevertheless makes recommendations on the following:

1. City-wide elections should be changed from odd-numbered years to even-numbered years to save the approximately \$500,000.00 it costs to have off-year elections and to increase voter turnout.
2. Each Council member should have the right to appoint his/her own Council assistant.

ACKNOWLEDGEMENTS

The Committee expresses its thanks to City Manager Michael Bierman and Chief Deputy City Manager James K. Katen for their special efforts in securing and delivering various research materials which were requested of them by the Committee. Without their assistance, the Committee's work could not have been accomplished given our time frame.

The Committee also thanks Mayor Karen Humphrey and Council members Rod Anaforian, Tom Bohigian, Brian Setencich and Robert Smith, each of whom personally met with the Committee and provided valuable insight to our work.

No work of this scope and time frame would be possible without the efforts of a very capable administrative assistant to keep the Committee informed and organized. The Committee is deeply grateful for the support and services of Cindy Spring, Administrative Assistant to Dr. Bill Stewart. Cindy's professionalism and quiet competence allowed the work of the Committee to proceed on schedule.

We would also like to thank the following businesses for their commitment to good government through their contributions of office space and financial support to the Committee:

Bank of America
California Office Furnishings
Edwin S. Darden Associates
Densmore Engines
DERCO Foods
Donaghy Sales
Electric Motor Shop
J.E. Ethridge Construction, Inc.
Gottschalks
Hallowell Chevrolet Co., Inc.
Johanson Transportation Service
Krazan & Associates, Inc.
Charles A. Looney Advertising
Lyles diversified, Inc.
Pacific Bell
Pacific Gas and Electric
Pacific Resources
Piccadilly Inn
Pittsburg Plate Glass
Producers Dairy Foods, Inc.
Shepherd-Knapp-Appleton
SJV Financial Corporation
State Center community College District
Stephen Investments, Inc.
Twining Labs, Inc.
Valley Yellow Pages

Appendix II

Current Charter of the City of Fresno

CHARTER OF THE CITY OF FRESNO

ARTICLE I INCORPORATION AND SUCCESSION

SEC. 100. NAME AND BOUNDARIES. The City of Fresno, hereinafter termed the City, shall continue to be a municipal corporation under its present name of "City of Fresno." The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, or as such boundaries may be changed thereafter in the manner authorized by law.

SEC. 101. SUCCESSION, RIGHTS AND LIABILITIES. The City of Fresno shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Charter takes effect and shall be subject to all its debts, obligations, liabilities and contracts.

SEC. 102. ORDINANCES. All lawful ordinances, resolutions, rules and regulations, or portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

SEC. 103. CONTINUANCE OF PRESENT OFFICERS AND EMPLOYEES. The appointive officers of the City, except members of boards and commissions, and the employees of the City under the preceding Charter shall continue to perform the duties of their respective offices and employments without interruption and for the same compensations and under the same conditions until the appointment of their successors or until they are specifically relieved of their duties, but subject to the provisions of this Charter.

SEC. 104. TRANSFER OF RECORDS AND PROPERTY. All records, property and equipment of any office, department or agency, or part thereof, all of the powers and duties of which are assigned to any other office, department or agency by or pursuant to

this Charter, shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned. If part of the powers and duties of any office, department or agency or part thereof is assigned to another office, department or agency by or pursuant to this Charter, all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department or agency to which said powers and duties are so assigned.

SEC. 105. OPERATIVE DATE OF CHARTER. For the purpose of nominating and electing the first Mayor and first Councilmen, the provisions of this Charter shall become operative when the concurrent resolution of the legislature approving this Charter is filed with the Secretary of State. For all other purposes this Charter shall become operative at twelve o'clock noon on the first Tuesday next following the date of the election of the first Mayor and first Councilmen and the qualification of not less than five members of the Council so elected. At such time the terms of all elective officers of the City under the preceding Charter shall terminate.

The first council elected hereunder shall immediately by resolution create temporary departments for the administration of the City government and shall appoint temporary heads thereof, said temporary department heads to continue as such until appointment of their successors by the Chief Administrative Officer under the provisions of this Charter.

SEC. 106. GENDER REFERENCES. It is hereby declared that any gender references including but not limited to the terms "man" or "men," "he," "him," or "his" in this Charter or any ordinances, resolutions or other written policies of the City of Fresno should be gender neutral and shall be amended to reflect gender neutrality when the particular Charter Section, ordinance, resolution or other written policy is amended for any purpose.

(Amendment ratified 1988 Primary Election, June 7, 1988.)

ARTICLE II POWERS OF THE CITY

SEC. 200. GENERAL POWERS. 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 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, the generality of the foregoing provisions.

SEC. 201. PROCEDURES. The City shall have the power and may act pursuant to any procedure established by any law of the State, unless a different procedure is established by this Charter or by ordinance.

SEC. 202. CONTRACTS FOR MUNICIPAL SERVICES. The City shall have the power to enter into a contract with any other city or county within the state, with a state department, or with any other public or private agency or firm for the performance of any administrative function of the City.

SEC. 203. CONTINUANCE OF LAWS. All lawful ordinances, resolutions, rules and regulations or portions thereof now in force and not in conflict or inconsistent herewith are continued in force until they have been duly repealed, amended, changed or superseded by proper authority.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 204. FORM OF GOVERNMENT. The government provided by this Charter shall be known as the Mayor-Council form of government.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

ARTICLE III ELECTIVE OFFICERS

SEC. 300. ENUMERATION. The elective officers of the City shall be a mayor and seven Councilmembers. The Council shall consist of seven Councilmembers, each of whom shall have the right to vote on all matters coming before the Council.

(Amendment ratified 1988 Primary Election, June 7, 1988.)

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 301. MANNER OF ELECTION. The Mayor shall be elected from the City at large at the times and in the manner provided in this Charter. The Councilmembers shall be elected by district at the times and in the manner provided in this Charter.

(Amendment ratified 1980 Special Municipal Election, June 3, 1980.)

(Amendment ratified 1988 Primary Election, June 7, 1988.)

SEC. 302. DESIGNATION OF COUNCILMEMBERS FOR ELECTION. As to the councilmembers there shall be deemed to be seven separate offices to be filled, one of which shall be designated as councilmember Number One, another as Councilmember Number Two, another as Councilmember Number Three, another as Councilmember Number Four, another as Councilmember Number Five, another as Councilmember Number Six, and another as Councilmember Number Seven. No candidate shall file for more than one elective office. Such designation shall be used on all nomination papers, certificates of election and all election papers referring to the office.

(Amendment ratified 1980 Special Municipal Election, June 3, 1980.)

(Amendment ratified 1988 Primary Election, June 7, 1988.)

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 303. TERM OF OFFICE.

(a) Except as otherwise provided in this Charter, the terms of elective offices shall be for four years.

(b) In 1981 and every fourth year thereafter, the offices of Councilmembers designated as Number Two, Number Four and Number Six and the office of Mayor shall be filled at the general municipal election held in May, or at such other time as provided by this Charter. In 1983 and every fourth year thereafter, the offices of Councilmembers designated as Number One, Number Three, and Number Five shall be filled at the general municipal election held in May, or at such other time as provided by this Charter.

(c) Beginning in 1995, each elected officer shall take office on the first Tuesday following the first Monday in January of the odd-numbered year following his or her election to office except in the case of special elections in which the person elected shall take office upon the certification of election results. Incumbents shall hold office until their successors are elected and qualified.

(d) Councilmembers designated as Number 1, Number 3, and Number 5 elected to office in 1991 shall serve in office until the first Tuesday following the first Monday in January of 1995.

(e) Councilmembers designated as Number 1, Number 3, and Number 5 elected to office in 1994 shall commence their terms in office on the first Tuesday following the first Monday in January of 1995.

(f) Councilmembers designated as Number 2, Number 4, and Number 6 and the Mayor elected to office in 1993 shall serve in office until the first Tuesday following the first Monday in January of 1997.

(g) Councilmembers designated as Number 2, Number 4, and Number 6 and the Mayor elected to office in 1996 shall commence their terms in office on the first Tuesday following the first Monday in January of 1997.

(h) The initial term for Councilmember designated as Number 7 shall commence on the first Tuesday following the first Monday in January 1997 and end on the first Tuesday following the first Monday in January 1999. Thereafter, the term of Councilmember designated as Number 7 shall commence and end at the same time as the terms of Councilmembers designated as Numbers 1, 3, and 5.

(Amendment ratified 1975 General Municipal Election.)

(Amendment ratified 1980 Special Municipal Election, June 3, 1980.)

(Amendment ratified 1988 Primary Election, June 7, 1988.)

(Amendment ratified 1993 Primary Election, March 2, 1993.)

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 303.1. LIMITATION OF TERMS OF OFFICE. No person elected to the office of Councilmember or Mayor for two successive terms shall again be eligible to hold that same office until one full term has intervened. This limitation applies to terms to which persons had been elected or appointed after May, 1985.

(Amendment ratified 1992 General Election, November 3, 1992.)

(Amendment ratified 1996 Consolidated General Election, November 5, 1996.)

SEC. 304. ELIGIBILITY, CITY RESIDENCE. No person shall be eligible to hold an elective office unless that person is, and has been for a period of at least thirty days immediately preceding the filing of nomination papers for such office or appointment to such office, a resident of the City, and unless that person is, and has been at the time of assuming such office, an elector of the City.

(Amendment ratified 1969 General Municipal Election; approved, Assembly Concurrent Resolution No. 172, filed with Secretary of State on June 12, 1969, Res. Ch. 197, Stat. 1969.)

(Amendment ratified 1973 General Municipal Election.)

(Amendment ratified 1977 Special Municipal Election, May 31, 1977.)

(Amendment ratified 1988 Primary Election, June 7, 1988.)

SEC. 304.1. ELIGIBILITY, DISTRICT RESIDENCE. Commencing with the 1981 general municipal election, no person shall be eligible to hold elective office as a Councilmember unless that person is, and has been for a period of at least thirty days immediately preceding the filing of nomination papers for such office or appointment to such office, a resident within the Council district corresponding in number to the office to which that person is elected or appointed. Each Councilmember shall, during that Councilmember's term of office, reside within such Council district. The boundaries of such districts shall be determined by the Council by ordinance and shall be redetermined by the Council, by ordinance adopted not later than one hundred and twenty days following the publication of each federal census thereafter; provided that the population disparity between districts shall not exceed ten percent at the time of any such boundary determination or redetermination, and no boundary shall be altered so as to exclude any incumbent from office prior to the expiration of that incumbent's term.

(Amendment ratified 1977 Special Municipal Election, May 31, 1977.)

(Amendment ratified 1980 Special Municipal Election, June 3, 1980.)

(Amendment ratified 1988 Primary Election, June 7, 1988.)

SEC. 305. VACANCIES.

(a) An elective office becomes vacant when the incumbent thereof dies, resigns, is removed from office under recall proceedings, is adjudged insane, is convicted of a felony or of an offense

involving a violation of his or her duties, ceases to be a resident of the City or the district corresponding in number to the office to which he or she was elected, neglects to qualify within the time prescribed by the provisions of this Charter, is absent from the State without leave for more than sixty consecutive days, or fails to attend the meetings of the body of which he or she is a member for a like period without being excused therefrom by such body.

(b) The Council shall declare the existence of any vacancy except vacancy caused by death or resignation. Such declaration shall be a final determination of the existence of the vacancy unless a court review is sought within thirty days after such declaration.

(c) A resignation is effective when received by the City Clerk unless a different time is stated in the resignation.

(d) A vacancy in an elected office shall be filled as follows:

(1) A vacancy in the office of a Councilmember may be filled by appointment by the Council if:

(i) The Council declares the existence of the vacancy or the incumbent dies or resigns in the final year of the term, and

(ii) The appointment is made within thirty days after the Council declares the existence of the vacancy or the incumbent dies or resigns.

(2) Any vacancy in the office of a Councilmember not filled pursuant to paragraph (1) shall be filled by a special election to be held not sooner than ninety days after the Council calls such election nor later than the next regular election date after the expiration of such ninety days.

(3) In the event of a vacancy in the office of Mayor, the Council shall appoint the Mayor Pro Tempore as Mayor for the period of time from the date of appointment to the date the newly elected Mayor assumes office and the Council shall call a special election for filling the vacancy, which election shall be called within thirty days after such vacancy occurs, provided that if such vacancy occurs within one hundred twenty days, but not less than eighty-eight days from the date of a municipal primary nominating election at which the office of mayor would regularly be filled, the City Council shall not cause a special election to be held to fill the vacancy but said vacancy shall be filled as part of the regular election process. If elected by a specially called election pursuant to this subsection (305) (d), the Mayor so elected shall serve for the remainder of the unexpired term of the Mayor whose vacation of the office has caused the special election to be held.

(e) Any person appointed or elected to fill a vacancy shall serve for the remainder of any unexpired term and until his or her successor qualifies. If a person appointed to fill a vacancy is a candidate for the same office which he or she then holds, the designation under the candidate's name on the ballot may be the words "appointed incumbent" or may be words designating the profession, vocation, or occupation of the candidate.

(f) If the Council fails either to fill a vacancy by appointment or to call a special election

within thirty days after the incumbent dies, or his or her resignation is effective, or the declaration of the existence of the vacancy becomes final, the salary or other compensation of each member of the Council shall cease until the Council calls such special election.

(g) At any special election called to fill a council or mayoral vacancy, the candidate receiving the majority of votes cast shall succeed to the vacated office for the unexpired term upon certification of the election results. If no candidate receives a majority of votes cast, Council shall call another special election within thirty days of the certification of the election results and the two candidates receiving the most votes shall be placed on that special election ballot.

(Amendment ratified 1975 General Municipal Election.)

(Amendment ratified 1977 Special Municipal Election, May 31, 1977.)

(Amendment ratified 1988 Primary Election, June 7, 1988.)

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 306. HOLDING OF OTHER OFFICE. No elective officer shall hold any other municipal office or hold any office or employment the compensation of which is paid out of municipal moneys; nor be elected or appointed to any office created or the compensation of which is increased by the Council, while a member thereof, until one year after the expiration of the term for which that person was elected.

(Amendment ratified 1988 Primary Election, June 7, 1988.)

SEC. 308. COMPENSATION OF ELECTIVE OFFICERS.

(a) The Council shall establish by ordinance the compensation of the elective officers of the City.

(b) Once the compensation of elective officers is fixed pursuant to subsection (a) of this section, the compensation of an elective officer shall not thereafter be increased or diminished during that elective officer's term of office.

(Amendment ratified 1980 Special Municipal Election, June 3, 1980.)

(Amendment ratified 1988 Primary Election, June 7, 1980.)

SEC. 309. OFF-YEAR CONTRIBUTIONS PROHIBITION. No mayoral candidate, Council candidate, or any committee controlled by such person shall solicit or accept any contribution in support of such candidate's election prior to the date fixed by law for the filing of nomination papers with respect to such election, or following the year

in which such election is held.

(Amendment ratified 1993 Primary Election, March 2, 1993.)

(Amendment ratified 1988 Primary Election, June 7, 1988.)

ARTICLE IV THE MAYOR

SEC. 400. Powers and Duties. The executive power of the City shall be vested in the office of the Mayor. The Mayor shall have the power to veto legislative and budgetary actions of the Council pursuant to and in accordance with the provisions of this Charter. The Mayor shall be the Chief Executive Officer of the City, responsible for providing leadership and taking issues to the people and marshalling public interest in and support for municipal activity. The Mayor shall be responsible to the People of Fresno for the proper and efficient administration of all affairs of the City.

In addition to these general responsibilities, the Mayor shall have the following specific duties:

- (a) The Mayor shall execute and enforce all laws and ordinances and policies of the City.
- (b) The Mayor shall have sole authority to appoint and remove the Chief Administrative Officer.
- (c) The Mayor shall exercise control over the Chief Administrative Officer.
- (d) The Mayor shall prepare or cause to be prepared the proposed annual City budget, and shall submit the same to the Council for its deliberation and approval.
- (e) The Mayor shall have the power of veto in all legislative matters which must be passed by the City Council, except as provided in this Chapter.
- (f) The Mayor shall have power of veto in all actions of Council relating to the budget, including line item budgetary veto authority over all programs and budgetary units. This authority includes the ability to reduce or eliminate the fiscal year funding to any program or budget unit.
- (g) The Mayor shall not directly supervise any City department.
- (h) The Mayor shall provide the liaison between the Administrative Service and the Council, fostering a sense of cohesion among Councilmembers and educating the public about the needs and prospects of the City.
- (i) The Mayor shall provide community leadership and actively promote economic development to broaden and strengthen the commercial and employment base of the City.
- (j) The Mayor shall recommend to the Council such measures and ordinances as he or she may deem necessary or expedient and to make such other recommendations to the Council concerning the affairs of the City as the Mayor finds desirable.
- (k) The Mayor shall investigate those affairs of the City under the mayor's supervision.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 401. MAYOR PRO TEMPORE. The President of the Council shall serve as Mayor Pro Tempore. In addition to his or her regular duties as Councilmember, the Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence except, however, the Mayor Pro Tempore shall not have veto authority in the absence of the Mayor. If the Mayor Pro Tempore is appointed Mayor pursuant to subsection 305(d) (2) of this Charter, he or she shall exercise all of the powers of the office of Mayor until a successor is elected and qualified.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 402. COMPENSATION.

(Repealed; ratified 1980 Special Municipal Election, June 3, 1980.)

ARTICLE V THE COUNCIL

SEC. 500. POWERS VESTED IN THE COUNCIL. All powers herein granted to and vested in the City of Fresno shall, except as herein otherwise provided, be exercised by a Council to be designated the Council of the City of Fresno. Said Council shall be the governing body of the City and, subject to the 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 of the State. Each Councilmember shall have the right to appoint and remove his or her own Council Assistant.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 501. PRESIDENT OF THE COUNCIL. Commencing in 1997 on the first Tuesday after the first Monday in January, the Council shall elect a President of the Council from among its members to serve for a one-year term. The President of the Council shall be the presiding officer of the Council. In addition, upon vacancy in the office of the Mayor, the office of the Mayor shall be filled by the President of the Council as provided on Article III of this Charter. In the event of a vacancy in the office of President of the Council or in the event the President is required to fill the office of Mayor, the Council shall select an Acting President who shall serve until the previously elected President returns to office or that Councilmember's term expires.

(Repealed; ratified 1980 Special Municipal Election, June 3, 1980.)

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 502. MEETINGS. The Council shall hold regular meetings and shall provide the time, place and manner of holding its meetings by resolution. All meetings of the Council shall be opened to the public, except executive sessions permitted by the law of the State.

(Amendment ratified 1973 General Municipal Election.)

(Amendment ratified 1996 Primary Election, March 26, 1996.)

SEC. 503. QUORUM. A Majority of the entire membership of the Council shall

constitute a quorum for the transaction of business, but a less number may adjourn from time to time. In the absence of all members of the Council from any regular meeting or adjourned regular meeting the City Clerk may declare the same adjourned to a stated day and hour.

SEC. 504. RULES AND PROCEDURES. The Council shall establish rules for the conduct of its proceedings and to preserve order at its meetings. It shall cause a record of its proceedings to be maintained which shall be open to public inspection.

SEC. 505. 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 attendance of witness, to examine them under oath and to compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify, upon other than constitutional grounds, shall constitute a misdemeanor and shall be punishable in the same manner as violations of this Charter are punishable.

SEC. 506. CITIZEN PARTICIPATION. No citizen shall be denied the right personally, or through counsel, to present grievances or offer suggestions for the betterment of municipal affairs at any regular meeting of the Council or any City advisory board, commission or committee.

ARTICLE VI LEGISLATION

SEC. 600. ENACTMENT OF ORDINANCES. Legislative action, including the establishment of a fine or other penalty or the grant of a franchise, shall be taken by the Council only by means of an ordinance, as follows:

(a) Each ordinance shall be introduced in writing, and its enacting clause shall be substantially as follows:

"The Council of the City of Fresno does ordain as follows:"

(b) No ordinance shall be adopted by the Council on the day of its introduction, or on the day it is altered after introduction, nor within five days thereafter, except as follows:

(1) An ordinance which takes effect upon final passage;

(2) An ordinance changing the land use zoning district of property, or adopting, amending, or repealing a specific plan or a redevelopment plan, when the adoption of such ordinance has been the subject of a noticed public hearing by the Council;

(c) No ordinance, except an emergency ordinance, shall be adopted at any time other than a regular or adjourned regular meeting.

(d) Upon the demand of a member of the Council at the time of the adoption of an ordinance, it shall be read in full, unless the reading thereof is waived by the Council.

(e) No ordinance changing the land use zoning district of property shall be adopted in conflict with any specific plan adopted by ordinance.

(f) An alteration necessary to correct a typographical or clerical error or omission only, may be performed by the City Clerk with the written approval and concurrence of the City Attorney, so long as the alteration does not materially or substantially alter the contents, requirements, rights, responsibilities, conditions, or prescriptions contained in the original text of the ordinance. A typographical or clerical error shall include, but is not limited, incorrect spelling, grammar, numbering, punctuation, transposed words or numbers, and duplicate words or numbers.

(Amendment ratified 1969 General Municipal Election; approved, Assembly Concurrent Resolution No. 172, filed with Secretary of State on June 12, 1969, Res. Ch. 197, Stat. 1969.)

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

(Amendment ratified 1996 Consolidated General Election, November 5, 1996.)

SEC. 601. VOTE REQUIRED. No ordinance shall be passed or become effective without receiving the affirmative vote of at least four members of the Council unless otherwise provided in the Charter.

(Amendment ratified 1969 General Municipal Election; approved, Assembly Concurrent Resolution No. 172, filed with Secretary of State on June 12, 1969, Res. Ch. 197, Stat. 1969.)

SEC. 602. ROLL CALL VOTE. APPROVED SUBSTITUTE. At the demand of any member or at the request of the City Clerk, upon any question, the members shall individually cast their votes, by audible voice vote at the call of the roll by the City Clerk, or by other means, approved by a majority of the members, which registers and publicly discloses the individual vote of each member. The City Clerk shall cause the ayes and noes cast to be entered into the minutes of the meeting.

(Amendment ratified 1969 General Municipal Election; approved, Assembly Concurrent Resolution No. 172, filed with Secretary of State on June 12, 1969, Res. Ch. 197, Stat. 1969.)

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

SEC. 603. EMERGENCY ORDINANCES. 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, adopted, and become effective at one and the same meeting if passed by at least five affirmative votes.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 604. SIGNATURE AND ATTESTATION. All ordinances and resolutions shall be attested by the City Clerk and when required by law, shall be signed by the Mayor.

SEC. 605. VETO OF CITY COUNCIL ACTIONS BY MAYOR.

(a) The Mayor shall have veto power over all legislative acts of Council, whether such actions be taken by ordinance, resolution, or otherwise. The Mayor's veto power shall not extend to administrative decisions or quasi-judicial decisions of Council. The veto power shall be afforded the Mayor irrespective of any super-majority vote by Council, except that the veto power shall

not extend to override votes taken pursuant to Section 609 of this Charter.

(b) For purposes of this Charter Section 605, legislative acts shall include amendments to the Fresno Municipal Code; adoption of general plans, community plans and specific plans; grants of franchise; establishment of fines, penalties, or regulations; tax levies; annexation of property; exemption of property from taxation; ordinances required by state law in matters wherein state law preempts local law; actions calling an election or otherwise relating to an election; resolutions and actions relating to eminent domain; adoption of budget; amendment of budget; fixing of compensation of officers and employees; position authorizations; establishment of fees; issuance of bonds; and all matters subject to the power of initiative and referendum.

(c) Notwithstanding, subsections 605(a) and (b), the Mayor's veto power shall not extend to:

(1) Emergency ordinances;

(2) Certain land use decisions including; the amendment of specific plans, community plans, and general plans; rezonings; conditional use permits or other special use permits approved by Council after consideration by the Planning Commission; or

(3) Any other land use action, other than text amendments to the Fresno Municipal Code, and whether legislative or quasi-judicial in nature, in which the matter has been considered at a public hearing before the City Council and Planning Commission.

(d) Each proposed resolution or ordinance voted on by the Council that is not approved by the Council and each ordinance or resolution adopted by the Council shall, within forty-eight hours of such action, be transmitted to the Mayor by the City Clerk, with appropriate notation of the action of the Council thereon. All ordinances, resolutions, or other action of Council subject to power of the mayor's veto shall be acted upon by the mayor within ten days of receiving the clerk's transmittal by Council.

The Mayor shall either approve each ordinance, resolution or other action adopted by Council subject to power of the mayor's veto adopted by the Council by signing and returning same to the City Clerk within the required time limits, or shall veto any ordinance, resolution or other action adopted by Council and shall return each such ordinance, resolution or action to the City Clerk with his or her written objections within the required time limit. Failure to make such return within the required time limit shall constitute approval and such ordinance, resolution, or action shall take effect without the Mayor's signed approval. The City Clerk shall note such fact on the official copy of such ordinance, resolution or action.

Any proposed ordinance, resolution or other action subject to power of the Mayor's veto which is voted on by the Council that is not approved by the Council shall be reconsidered by the Council on written request of the Mayor, stating his or her reasons therefor, filed with the City Clerk by the mayor within ten days after the Council's action on such resolution or ordinance. The Council shall reconsider such measure at its convenience, but not later than thirty days after the filing of the Mayor's request therefor.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 606. AMENDMENT OF ORDINANCES. The amendment of any section or subsection of an ordinance may be accomplished solely by the re-enactment of such section or subsection at length, as amended.

SEC. 607. CODIFICATION OF ORDINANCES. The Council shall cause to be classified and codified under appropriate heads all general ordinances in force and cause the same to be printed in book, pamphlet, or looseleaf form for the use of the City, its officers, and the public.

SEC. 608. ORDINANCES, VIOLATION PENALTY. The Council may make the violation of its ordinances a misdemeanor or an infraction which may be prosecuted in the name of the People of the State of California, or may be redressed by civil action. The Council may prescribe punishment for a violation which constitutes a misdemeanor by a fine not to exceed one thousand dollars (\$1000) or by imprisonment not to exceed one year, or by both such fine and imprisonment, and may prescribe punishment for a violation which constitutes an infraction.

(Amendment ratified 1975 General Municipal Election.)

SEC. 609. ENACTMENT OVER VETO. The Council may reconsider any ordinance, resolution, or other action subject to the Mayor's veto, which has been vetoed by the mayor and if, after such reconsideration, five members of the Council shall vote in favor of passage thereof, it shall become effective notwithstanding the Mayor's veto. If more than five votes are required for the adoption or approval of any resolution, ordinance or other action by the provisions of this Charter or other superseding law, such larger vote shall be required to overcome the veto of the Mayor. If such vetoed ordinance, resolution, or other action is not passed over the Mayor's veto within thirty days of such veto, the resolution, ordinance, or other action shall be deemed disapproved.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 610. EFFECTIVE DATE OF ORDINANCES. An ordinance adopted by the Council shall become effective thirty days from and after the date of its final passage, except the following, which shall take effect on the date of final passage:

(a) An ordinance calling or otherwise relating to an election;

- (b) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property;
- (c) An emergency ordinance adopted in the manner provided in this Charter;
- (d) An ordinance annexing areas to the City; or
- (e) An ordinance providing for a tax levy or an appropriation for the usual current expenses and outlays of the City.

The date of final passage shall be deemed the date of approval by Mayor pursuant to Charter Section 605. In those cases, where the mayor does not have veto power, the date of final passage shall be deemed the date of Council adoption.

If an ordinance becomes law when the time for approval or veto by mayor has expired and no action has been taken, the date of expiration of that time shall be deemed the date of its final passage. If an ordinance is adopted by Council pursuant to a veto override vote, the date of Council's override vote shall be deemed the date of final passage.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

ARTICLE VII CHIEF ADMINISTRATIVE OFFICER

SEC. 700. ADMINISTRATIVE POSITION. There shall be a Chief Administrative Officer who shall be head of administrative branch of the City government.

SEC. 701. QUALIFICATIONS. The Chief Administrative Officer shall be appointed solely on the basis of his executive and administrative qualifications, with special reference to his actual experience in or his knowledge of accepted practice in respect to the duties of his office as hereinafter set forth. He shall have at least five year's experience as the administrative head or assistant administrative head of a city, or he shall have had equivalent experience in the direction and supervision of other governmental, private business, or industrial activities of comparable importance and magnitude. He need not be a resident of the City or State at the time of his appointment, but during his tenure in office, he shall reside in the City of Fresno. No resident of the County of Fresno at the time this Charter becomes fully operative shall be appointed Chief Administrative Officer within twelve months thereafter.

SEC. 702. APPOINTMENT AND REMOVAL. The Chief Administrative Officer shall be appointed by the Mayor. Such appointment must be made within ninety days after the first election held under this Charter and within ninety days after any subsequent vacancy occurs in the office. The Chief Administrative Officer may be removed from office by the Mayor.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 703. RESIGNATION. Before resigning his position, it shall be the duty of the Chief Administrative Officer to give the Mayor at least thirty days' notice in writing of his or her intention to resign, stating the reasons therefor.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 704. COMPENSATION. The Chief Administrative Officer shall be paid a salary commensurate with his or her responsibilities as Chief Administrative Officer of the City which salary shall be established by Council resolution. In the event of his or her

removal from office, the Chief Administrative Officer shall be paid his or her salary through thirty days following the date of his or her removal.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 705. POWERS AND DUTIES. The Chief Administrative Officer shall work under the direct supervision of the Mayor. He or she shall be responsible to the Mayor for the administration of all affairs of the City not otherwise assigned in this Charter. He or she shall have the power and be required to:

- (a) Exercise control over all departments, offices and agencies under his or her jurisdiction;
- (b) Advise the Mayor concerning the creation, organization, conduct, operation, alteration, or abolition of the various departments, offices and agencies of the city government.
- (c) Appoint, and he or she may suspend or remove, subject to the Civil Service System provisions of this Charter, all department heads and officers of the City except elective officers and officers the power of whose appointment is vested by this Charter in the Council, provided, however, that the appointment, removal and suspension of the Controller shall be subject to the approval of the Council; approve or disapprove all proposed appointments and removals of deputies, assistants and subordinate employees by department heads or officers except those officers whose appointment is vested by this Charter in the Council or mayor, and such appointments and removals by such department heads or officers shall be subject to his or her approval;
- (d) Administer the budget after adoption;
- (e) Establish such financial and accounting records and procedures as will reflect the current financial status of all municipal activities;
- (f) Establish a central purchasing system of all city offices, departments and agencies;
- (g) Keep the Mayor advised of the financial affairs and conditions and future needs of the City and make recommendations to the Mayor concerning the administration of city affairs;
- (h) Prepare and submit to the Mayor reports in answer to requests for information made to him or her by the mayor;
- (i) Perform such other duties as may be prescribed by this Charter or required of him or her by the Mayor, not inconsistent with this Charter;
- (j) Attend all meetings of the Council, unless excused therefrom by the Mayor.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 706. INTERFERENCE IN ADMINISTRATIVE SERVICE. Neither the

Mayor nor the Council except by official action taken in policy matters, nor any of its members shall interfere with the execution by the Chief Administrative Officer of his powers and duties, or order, directly or indirectly, the appointment by the Chief Administrative Officer or by any of the department heads in the administrative service of the city, of any person to an office or employment or his removal therefrom. Except for the purpose of inquiry, the Mayor, the Council and its members shall deal with the administrative service under the Chief Administrative Officer solely through the Chief Administrative Officer and neither the Mayor nor the Council nor any member thereof shall give orders to any subordinates of the Chief Administrative Officer, either publicly or privately.

SEC. 707. CHIEF ADMINISTRATIVE OFFICER PRO TEMPORE.

(Repealed; ratified 1993 General Municipal Election, April 27, 1993.)

ARTICLE VIII OFFICERS AND EMPLOYEES

SEC. 800. OFFICERS TO BE APPOINTED BY THE COUNCIL. There shall be a City Attorney and a City Clerk who shall be appointed by and serve at the pleasure of the Council, but who may be removed only by a majority vote of the entire Council.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 801. ADMINISTRATIVE DEPARTMENTS. The Council shall provide by resolution not inconsistent with this Charter, for the organization, conduct and operation of the several offices established by this Charter, and for the creation of departments, divisions, offices and agencies, and for their consolidation, alteration or abolition. The Council by resolution, may assign additional functions or duties to offices, departments or agencies not inconsistent with this Charter. No office provided in this Charter to be filled by appointment by the Chief Administrative Officer may be consolidated with an office to be filled by appointment by the Council. The Council, subject to the provisions of this Charter, shall provide for the number, titles, qualifications, powers, duties and compensation of all appointive officers and employees.

(Amendment ratified 1996 Primary Election, March 26, 1996.)

SEC. 802. CITY CLERK. POWERS AND DUTIES. The City Clerk shall have power and be required to:

- (a) Be responsible for the recording and maintaining of a full and true record of all the proceedings of the Council in books that shall bear appropriate titles and be devoted to such purpose, and attend all meetings of the Council either in person or by deputy;
- (b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published in accordance with this Charter; keep all books properly indexed and open to public inspection when not in actual use;
- (c) Maintain separate files, with appropriate indexes thereto, of all contracts the execution of which was specifically authorized by Council action, and of all official bonds of the City;
- (d) Be the custodian of the Seal of the City;
- (e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and

business of the City and certify copies of official records;

(f) Be ex-officio Assessor, unless the Council has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by county officers, or unless the Council by ordinance provides otherwise.

(g) Maintain in appropriate books and files such other records, documents, instruments, and papers as the Council shall provide by ordinance.

Except as may be otherwise provided by ordinance or resolution of the Council the destruction or other disposition of City records, documents, instruments, books, and papers in the custody of the City Clerk shall be governed by the laws of the State regulating the destruction or disposition of the records of general law cities.

(Amendment ratified 1969 General Municipal Election; approved, Assembly Concurrent Resolution No. 172, filed with Secretary of State on June 12, 1969, Res. Ch. 197, Stat. 1969.)

SEC. 803. CITY ATTORNEY. POWERS AND DUTIES. To become eligible for City Attorney the person appointed shall be an attorney-at-law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law for at least five years prior to his appointment. The City Attorney shall have power and may be required to:

- (a) Represent and advise the Council and all city officers in all matters of law pertaining to their offices;
- (b) Represent and appear for the city in any or all actions or proceedings in which the city is concerned or is a party, including the prosecution of violations of this Charter and ordinances enacted by the Council, and represent and appear for any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which any such officer or employee is concerned or is a party for any act arising out of his employment or by reason of his official capacity provided the interest of the city in such action or proceeding is not adversely affected;
- (c) Attend all regular meetings of the Council and give his advice or opinion in writing whenever requested to do so by the Council or by any of the boards or officers of the city;
- (d) Approve the form of all contracts made by and all bonds given to the city, endorsing his approval thereon in writing;
- (e) Prepare any and all proposed ordinances or resolutions for the city and amendments thereto;
- (f) Surrender to his successor all books, papers, files and documents pertaining to the city's affairs;
- (g) The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

SEC. 804. CITY CONTROLLER. There shall be a Controller appointed by the Chief Administrative Officer with the approval of the Council who shall have power and shall be required to:

- (a) Have charge of the Finance Department and of the administration of the financial affairs of the city under the direction of the Chief Administrative Officer;
- (b) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures to insure that budget appropriations are not exceeded;
- (c) Submit to the Council through the Chief Administrative Officer a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city; and as of the end of each fiscal year, submit a complete financial statement and report;
- (d) Supervise the keeping of current inventories of all property of the city by all city departments, offices and agencies.

SEC. 805. ADMINISTERING OATHS. Each department head and his deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his department.

SEC. 806. DEPARTMENT HEADS. APPOINTMENT POWERS. Each department head and officer authorized by the Charter shall have the power to appoint, suspend or remove such deputies, assistants and subordinate employees as are provided for by the Council for his department or office, subject to the approval of the Chief Administrative Officer, the provisions of this Charter and of the Civil Service System as adopted hereunder.

SEC. 807. 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 of the members of such Council, nor shall any department head or other officer having appointive power or other supervising employee as defined by ordinance appoint any relative of his within such degree to any such position.

SEC. 808. OFFICIAL BONDS. The Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City

Clerk. Premiums on official bonds shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his bond, for any wrongful act or omission of his subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or commission.

SEC. 809. SALARIES AND WAGES. Compensation of officers and employees of the City, except where this Charter provides that no salary shall be paid, shall be fixed by the Council as it may from time to time determine; provided further, that city employees shall be paid not less than the prevailing wage paid in private employment in the City of Fresno in the job or position in which said employees work and the City shall not require its employees to work longer hours for the same wage than workers in private employment in said city work for such wage in like employment.

(Amendment ratified 1993 Primary Election, March 2, 1993.)

SEC. 810. HOURS OF WORK. There shall not be established for any position in the city service a regularly scheduled work day of more than eight hours or a regularly scheduled work week of more than five days, except that there may be established a regularly scheduled work day of up to ten hours for any position for which the regularly scheduled work week is not more than four days, or any other work week mutually agreed to between the City and a non-represented employees or between the City and a recognized employee organization. A member of the city fire fighting force shall be required to work, on a twenty-four hour day basis, not more than fifty-six hours per week on an average, said average to be determined in multiples not to exceed ninety days.

(Amendment ratified 1973 General Municipal Election.)

(Amendment ratified 1996 Primary Election, March 26, 1996.)

SEC. 811. HOLIDAYS. All employees, except temporary employees, shall be entitled to or shall receive credit for all holidays during each fiscal year without loss of compensation. The word "holiday" as used in this section, shall mean every state holiday, including that day in November known as Thanksgiving Day, but not including Sundays or any other day appointed by the President of the United States or the Governor of the State as a public fast, thanksgiving, or holiday, unless such appointed day is also declared to be a holiday pursuant to ordinance or resolution of the Council.

The amendment of this section to specify the exclusion of Sunday as a "holiday" under this section is declared to be a restatement, for the purpose of clarification only, of the law of the

section in effect prior to such an amendment.

(Amendment ratified 1973 General Municipal Election.)

SEC. 812. STATUS OF EXISTING EMPLOYEES. Persons employed by the city at the time this Charter becomes fully operative, except elective officers and members of appointive boards, commissions, and committees holding positions the same in substance as positions established or continued in the plan of organization provided under this Charter or by ordinance not inconsistent therewith and who have completed the period of probationary employment under the preceding Charter provisions and Civil Service rules or have served satisfactorily an equivalent period of time in positions not subject to probationary employment, shall have the right to remain in such positions or other positions of like duties, responsibilities and authority until promoted, removed, or reduced in rank in accordance with the provisions of this Charter. Any rights previously accumulated by a person under probationary status shall be retained.

Any officer or employee of the city who is appointed to or continued in a position as Department Head and is subsequently removed therefrom, except for malfeasance or misconduct, shall revert to his former position without loss of any rights or privileges and upon the same terms and conditions as if he had remained in said position continuously. Should such person be eligible for retirement under the retirement or pension system, he shall upon recommendation of the Chief Administrative Officer be retired instead of being restored to his former position.

The rights of employees relating to accrued sick leave and vacation or the validity of eligible lists created by virtue of Charter or Civil Service provisions in effect at the time this Charter becomes fully operative shall continue until exhausted pursuant to such provisions.

SEC. 813. POLITICAL ACTIVITIES. Except as otherwise provided by the general laws of this state heretofore or hereafter enacted, no person in the Administrative Service, or seeking admission thereto, shall be employed, promoted, demoted or discharged or in any way favored or discriminated against because of political opinions or affiliations or because of race, sex, or religious belief.

No officer or employee of the city and no candidate for any city office shall, directly or indirectly, solicit any assessment, subscription, or contribution, whether voluntary or involuntary, for any political purpose whatever, from anyone on the eligible lists or holding any position in the Administrative Service.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971. Amendment ratified March 5, 1985 Special Municipal Election; filed with Secretary of State on May 6, 1985.)

ARTICLE IX BOARDS AND COMMISSIONS

SEC. 900. IN GENERAL. There shall be such boards and commissions as are hereinafter established which shall have the powers and duties herein stated. The Council may create by ordinance additional boards or commissions as in its judgment are required, and may grant to them such powers and duties as are consistent with the provisions of this Charter.

SEC. 901. APPROPRIATIONS. The Council shall include in its annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions.

SEC. 902. APPOINTMENTS, TERMS. The members of each of such boards or commissions shall be appointed by the Mayor with the approval of the Council from the qualified electors of the City, none of whom shall hold any paid office or employment in the City government. They shall be subject to removal by motion of the Council adopted by at least five affirmative votes. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified.

The terms of the members first appointed to each board and commission shall be determined by lot so that as nearly as possible the terms of twenty-five per cent of the total membership of each board or commission shall expire each succeeding July 1.

Thereafter, any appointment to fill an unexpired term shall be for such unexpired period.

(Amendment ratified 1969 General Municipal Election; approved, Assembly Concurrent Resolution No. 172, filed with Secretary of State on June 12, 1969, Res. Ch. 197. Stat. 1969.)

SEC. 903. EXISTING BOARDS AND COMMISSIONS. The respective terms of office of all members of the boards and commissions in existence at the time this Charter becomes fully operative shall terminate.

SEC. 904. MEETINGS, CHAIRMEN. As soon as practicable, following the first day of July of every year, each of such boards and commissions shall organize by electing one of its members to serve as presiding officer at the pleasure of such board or

commission. Each board or commission established by this Charter shall hold regular meetings at least once each month. Each board or commission created by ordinance shall hold regular meetings at such regular intervals as the proper transaction of its business shall require, but not less often than once each year. All proceedings shall be open to the public.

Except as may be otherwise provided in this Charter, the Chief Administrative Officer shall designate a secretary for the recording of minutes for each of such boards and commissions, who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations which shall be consistent with this Charter and copies of which shall be kept on file in the office of the City Clerk where they shall be available for public inspection. Each board or commission shall have the same power as the Council to compel the attendance of witnesses, to examine them under oath, to compel the production of evidence before it and to administer oaths and affirmations.

(Amendment ratified 1969 General Municipal Election; approved, Assembly Concurrent Resolution No. 172, filed with Secretary of State on June 12, 1969, Res. Ch. 197, Stat. 1969.)

SEC. 905. COMPENSATION. VACANCIES. The members of boards and commissions shall serve without compensation for their services as such unless the Council shall otherwise provide, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the Council.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by the Mayor with the approval of the Council. Upon a vacancy occurring leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a member of a board or commission absents himself from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a felony, or ceases to be a qualified elector of the City, his office shall become vacant and shall be so declared by the Council.

SEC. 906. PLANNING COMMISSION. ESTABLISHED. There shall be a Planning Commission consisting of seven members. Such city officers and employees as shall be designated by the Chief Administrative Officer shall meet with and participate in the discussions of the Planning Commission but shall not have a vote.

SEC. 907. PLANNING COMMISSION. The Planning Commission shall have the power and duty to:

- (a) After a public hearing thereon, recommend to the Council the adoption, amendment, or repeal of the General Plan, or any part thereof, for the development of the city;
- (b) Exercise such control over land subdivisions as is granted to it by the Council;
- (c) Make recommendations concerning proposed public works and for the clearance and rebuilding of blighted or substandard areas within the city;
- (d) Exercise such functions with respect to zoning and land use as may be prescribed by ordinance, not inconsistent with the provisions of this Charter.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

SEC. 908. CIVIL SERVICE BOARD. The Civil Service Board shall consist of five members, none of whom while a member of the Board, or for a period of one year after he has ceased for any reason to be a member, shall be eligible for appointment to any salaried office or employment in the service of the City. "Salaried office" shall not be deemed to include an elective office or membership on a board or commission of the city.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

SEC. 909. CIVIL SERVICE BOARD, POWERS AND DUTIES. The Civil Service Board shall have the power and duty to:

- (a) Recommend to the Council, after a public hearing thereon, the adoption, amendment, or repeal of Civil Service rules and regulations;
- (b) Act in an advisory capacity to the Council on problems concerning personnel administration;
- (c) Conduct hearings as provided in Section 1002 relative to the suspension, demotion, and removal of any person in the City employment;
- (d) Make any investigation which it may consider desirable concerning the conditions of employment and the administration of personnel in the municipal service and report its findings to the Council;
- (e) Perform such other duties as may be prescribed by ordinance not inconsistent with the provisions of this Charter.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

SEC. 910. RETIREMENT AND/OR PENSION BOARDS. Notwithstanding any other provisions in this Charter, the City of Fresno Fire and Police Retirement Board and the City of Fresno Employee's Retirement Board shall each consist of five members, selected as follows:

- (a) two members elected by and from the City employees affected; and,
- (b) two members from management appointed by the Mayor with the approval of the City Council; and,
- (c) the fifth member chosen by the previously designated four members.

The members of such boards shall be removable only by the appointing or electing authority.

The Retirement Board shall appoint and direct a Retirement Administrator who shall report to the Board; serve at the Board's pleasure; administer the retirement office and its financial affairs as directed by the Board; appoint, suspend and remove subordinate employees subject to the Civil Service System provisions of this Charter; and perform such other administrative duties as directed by the Board.

(Amendment ratified 1996 Primary Election, March 26, 1996.)

ARTICLE X CIVIL SERVICE SYSTEM

SEC. 1000. UNCLASSIFIED AND CLASSIFIED SERVICE. The administrative Service of the City shall be divided into Unclassified and Classified Service:

(a) The Unclassified Service shall be comprised of the following officers, employees, and positions:

- (1) The Chief Administrative Officer, his or her deputies, if any, the City Clerk, the City Attorney, his or her deputies, if any, Council Assistants and all management employees serving in a class which contains one or more positions at the division head level and above, including the heads of all departments created by the Council.
- (2) Positions in any class or grade created for special or temporary purposes for a period of not longer than one year within any two consecutive fiscal years;
- (3) Persons employed to render professional, scientific, technical, or expert services of any occasional or exceptional character;
- (4) Part-time employees paid on an hourly or per diem basis .

(b) The Classified Service shall be comprised of all positions not specifically included in this section in the Unclassified Service.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

(Amendment ratified 1981 Municipal Election, March 3, 1981.)

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 1001. MERIT PRINCIPLE. All appointments to and promotions within the Classified Service shall be based upon efficiency and fitness which shall be ascertained by means of recognized personnel selection techniques.

SEC. 1002. SUSPENSION, DEMOTION, AND DISMISSAL. Except as otherwise provided in this Charter, an officer or employee holding a position in the classified service may be suspended without pay, demoted, or removed from his position for malfeasance, misconduct, incompetence, inefficiency or for failure to perform the duties of his position or to observe the established rules and regulations in relation thereto, or to cooperate reasonably with his superiors or fellow employees, but subject to

the right to a hearing before the Civil Service Board in the manner set forth herein.

An officer or employee suspended, demoted, or removed shall be given in writing the reasons for his suspension, demotion, or removal. He shall be allowed a reasonable time for answering the same and may demand a public hearing upon the charges before the Civil Service Board, such hearing to be held in accordance with procedures established therefor. Hearings may be conducted informally and the technical rules of evidence need not apply but the officer or employee whose suspension, demotion, or removal is sought may be heard in person, be permitted to be represented by counsel and to produce testimony in his own behalf.

The decision of the Civil Service Board upon any such hearing shall be final. Any action or proceeding brought to determine the validity of the decision shall be commenced in a court of competent jurisdiction within thirty days after the date of mailing of notice of the decision to the parties.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

ARTICLE XI RETIREMENT

SEC. 1100. RETIREMENT SYSTEM. The Council shall by ordinance provide for and establish a fund or funds for the relief and pensioning of all employees of the City of Fresno, except elective officers and part-time employees, who have been disabled or become superannuated in the service of the City and shall provide for the administration of such fund or funds; provided, however, that retirement benefits established by any ordinance existing at the effective date of this Charter shall not be reduced, decreased or diminished.

SEC. 1101. VETERANS. Notwithstanding any provision of law, any member of the Administrative Service of the City of Fresno who enters or shall have heretofore entered the armed services of the United States or the State of California during time of war or during any emergency declared by the President of the United States while so employed, and shall have been honorably discharged therefrom and thereupon returned to such employment within a reasonable time, after the termination of such war or emergency, shall for all purposes of any pension or retirement ordinance now or hereafter in effect, be entitled to have such time as he may have served in such armed forces deemed as service to the City of Fresno at the rate of compensation received immediately prior to his entry into such armed service. However, no contribution toward any pension or retirement fund shall be required of such person for the time spent in such armed forces.

The provisions of this section shall be cumulative to any provisions of law enacted by the State of California or the United States relating to the reemployment of persons entering the armed forces of the United States or of the State of California.

ARTICLE XII FISCAL ADMINISTRATION

SEC. 1200. TAX SYSTEM. For the purpose of municipal property taxation, the City may continue to use the County system of assessment, tax collection and deposit as such system is now in effect or may hereafter be amended and insofar as such provision is not in conflict with this Charter.

Should there arise any reason whatsoever that prevents the City from using the County system, the Council shall provide by ordinance a system for the assessment, collection and deposit of municipal property taxes.

SEC. 1201. FISCAL YEAR. The fiscal year of the City shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

SEC. 1202. ANNUAL BUDGET. PREPARATION BY CHIEF

ADMINISTRATIVE OFFICER. At such date as the Mayor shall determine, each department head shall furnish to the Mayor through the Chief Administrative Officer, estimates of revenue and expenditures for his or her department, detailed in such manner as may be prescribed by the mayor. In preparing the proposed budget, the Mayor shall review the estimates, hold conferences thereon with the Chief Administrative Officer and respective department heads and may revise the estimates as he or she may deem advisable.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 1203. BUDGET. SUBMISSION TO THE COUNCIL. At least thirty days prior to the beginning of each fiscal year, the Mayor shall submit to the Council the proposed budget as prepared for him or her. The Council may review the proposed budget and make such revisions as it may deem advisable. At the time he or she submits the proposed budget to the Council the Mayor shall determine, and shall advise the Council of, the time for holding of a public hearing thereon, and shall cause notice to be given of the time and place of such hearing, not less than ten days prior to the time fixed therefor, by publication of such notice at least once in a newspaper of general circulation in the City. Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten days prior to the hearing.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 1204. BUDGET, PUBLIC 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.

SEC. 1205. BUDGET, FURTHER CONSIDERATION AND ADOPTION. 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 on or before June 30, it shall adopt a budget. A copy thereof, certified by the City Clerk, shall be filed with the person retained by the Council to perform auditing functions for the Council and a further copy shall be placed and shall remain on file in the office of the City Clerk, where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of departments, offices and agencies of the City.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

SEC. 1206. BUDGET, APPROPRIATIONS. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named. 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 the affirmative votes of at least five members so as to authorize the transfer of unused balances appropriated for one purpose to another purpose or to appropriate available funds not included in the budget.

SEC. 1207. TAX LEVY. On or before the last Tuesday in August in each year, the Council shall, by ordinance, levy such tax as may be necessary to meet the appropriations made (less the estimated amount of revenue from other sources), and all sums required by law to be raised on account of the City debt and interest thereon, together with such addition, not exceeding five per cent, as may be deemed necessary to meet commissions, fees and deficiencies from the estimates in the amount of taxes

collected.

SEC. 1208. PROCUREMENT AND COMPETITIVE BIDDING.

(a) Every contract involving an expenditure of city moneys of more than one hundred thousand dollars (\$100,000), adjusted annually on the first of July to the nearest one thousand dollars (\$1,000) in response to changes in the National Consumer Price Index (United States City Average For All Products), for materials, supplies, equipment or for any public work of improvement, shall be let to the lowest responsive and responsible bidder after notice by publication in a newspaper of general circulation within the city by one or more insertions, the first of which shall be at least seven days before time for opening bids. For purposes of this subsection, Council shall by ordinance define "public work of improvement".

(1) All bids hereunder shall be accompanied by either a certified, or cashier's check, an irrevocable letter of credit, or a bidder's bond executed by a corporate surety admitted by the California Insurance Commissioner to do business in California, payable and acceptable 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 of the aggregate amount of the bid. A certificate of deposit or other instrument approved by Council may be accepted by the city in lieu of a bidder's bond. 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 may be declared forfeited to the city and may be collected and paid into a lawful, available city fund, and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

(2) All bids hereunder shall be submitted in a sealed envelope and shall be filed with the officer in charge of the purchasing function prior to the opening time specified in the notice inviting bids. Such officer shall receive and be custodian of such bids and keep the same confidential until they are opened and declared.

(3) All bids received hereunder shall be publicly opened and declared at the time and at the place fixed in the notice inviting bids. Thereafter, the bids shall be tabulated and analyzed by the officer in charge of the purchasing function, who shall submit them, together with recommendations thereon, to the Chief Administrative Officer. The Chief Administrative Officer shall review the bids and submit them to the Council, along with his/her recommendations, at a duly scheduled meeting of the Council.

(4) The Council shall have the right to waive any informality or minor irregularity in a bid. The Council may reject any and all bids presented and may readvertise in its discretion.

(5) The provisions of this subsection (a) shall not apply to any of the following:

(i) A work of improvement obtained through a design build process if authorized pursuant to subsection (c) herein.

- (ii) Work done by the city with its own personnel and/or equipment.
- (iii) Materials, supplies, equipment or any public work of improvement obtained from or through any governmental agency.
- (iv) When Council determines that the work to be done or the goods to be supplied can only be provided by one source, and the purchase is authorized by resolution of the Council containing a declaration of the facts constituting the sole source.
- (v) When the purchase is deemed by Council to be of urgent necessity for the preservation of life, health or property, and such purchase is authorized by resolution passed by at least five affirmative votes of the Council and containing a declaration of the facts constituting the urgency.

(6) For those instances when alternative bid forms, or additive or deductive items are included in bid specifications, Council may establish by ordinance the method that will be used to determine the lowest bid. The establishment of any such method by the Council will not preclude the city from adding to or deducting from the contract any of the additive or deductive items after the lowest responsive and responsible bidder has been determined. Nothing in this subsection (a) shall preclude the Council from establishing a method reserving to the Council the right to award, after consideration of the amount of the bids and the combination of work to be performed, to the lowest responsive and responsible bidder of any alternative bid form or any combination of bid prices on the base contract and additive and/or deductive items identified in the city specifications, when in Council's discretion it determines such award to be either in the best interests of the city or obtains for the public the best economic result. Notwithstanding subdivisions (2) and (3) of this subsection (a), Council may establish by ordinance a method whereby the identity of the bidder is kept confidential until following Council's determination of the lowest bid.

(7) The Council may by resolution or ordinance establish procedures and requirements for hearing appeals by any bidder who has been determined by the Chief Administrative Officer to be nonresponsive or nonresponsible. The Council may also by resolution or ordinance establish procedures and requirements for the debarment of any bidder who has been determined by the Council to be nonresponsible.

(b) Notwithstanding subsection (a) above, the Council may by ordinance authorize the officer in charge of the purchasing function, in the evaluation of any or all sealed bids for the purchase of materials, supplies, equipment and/or any public work of improvement, to extend up to a five percent preference for a local business in award of all contracts except for those contracts funded by the federal or state government when such funding would be jeopardized because of this preference. For purposes of this section, "local business" shall be as defined by Council within such ordinance.

(1) The amount of the preference shall be equal to the amount of the percentage applied to the lowest responsive and responsible bid.

(2) If the bidder submitting the lowest responsive and responsible bid is not a local business, and if a local business has also submitted a responsive and responsible bid, and, with the benefit of the preference, the local business's bid is equal to or less than the original lowest responsive and responsible bid, the city shall award the contract to the local business at its submitted bid price.

(3) The bidder shall certify, under penalty of perjury, that the bidder qualifies as a local business. The preference is waived if the certification does not appear on the bid.

(c) Council may by ordinance establish a "design build process" which may be utilized in lieu of a competitive bid process as required by this section for construction of any public work of improvement.

(d) To be valid hereunder, any contract with the city for property, goods, services, materials, supplies, equipment or work shall be in writing and approved as to form by the City Attorney.

(e) The city shall not be subject to the California Public Contract Code, in whole or in part, unless Council agrees by ordinance.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

(Amendment ratified 1979 General Municipal Election, March 6, 1979.)

(Amendment ratified 1988 General Election, November 8, 1988.)

(Amendment ratified 1992 General Election, November 3, 1992.)

(Amendment ratified 1996 Primary Election, March 26, 1996.)

(Amendment ratified 2002 Consolidated Direct Primary Election, March 5, 2002.)

SEC. 1209. CASH BASIS FUND. The Council may maintain a revolving fund, to be known as the "Cash Basis Fund", for the purpose of placing the payment of the running expenses of the City on a cash basis when so maintained. A reserve shall be built up in this fund from any available sources in an amount which the Council deems sufficient with which to meet all lawful demands against the city for the first five months, or other necessary period, of the succeeding fiscal year prior to the receipt of ad valorem tax revenues. Transfers may be made by the Council from such fund to any other fund or funds of such sum or sums as may be required for the purpose of placing such funds, as nearly as possible, on a cash basis. All moneys so transferred from the Cash Basis Fund shall be returned thereto before the end of the fiscal year.

SEC. 1210. TEMPORARY LOANS. Money may be borrowed in anticipation of the receipts from taxes during any fiscal year, by the issue of notes, certificates of

indebtedness or revenue bonds; but the aggregate amount of such loans at any time outstanding shall not exceed twenty-five percent of the receipts from taxes during the preceding fiscal year; and all such loans shall be paid out of the receipts from taxes for the fiscal year in which they are issued.

SEC. 1211. CAPITAL OUTLAYS FUND. A fund for capital outlays, generally is hereby created, to be known as the "Capital Outlays Fund". The Council may create by ordinance a special fund or funds for a special capital outlay purpose. The Council may levy and collect taxes for capital outlays and may include in the annual tax levy a levy for such purposes in which event it must apportion and appropriate to any such fund or funds the moneys derived from such levy; provided, however, that the tax rate for capital outlay purposes does not exceed twenty cents (20¢) in any one year.

Once created, such fund shall remain inviolate for the purpose for which it was created; if for capital outlays generally, then for any such purposes, and if for a special capital outlay, then for such purpose only, unless the use of such fund for some other purpose is authorized by the affirmative votes of a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

If the purpose for which any capital outlay fund has been created has been accomplished, the Council may transfer any unexpended or unencumbered surplus remaining in such fund to the fund for capital outlays generally, established by this Charter.

SEC. 1212. UNAPPROPRIATED RESERVE FUND. The Council shall establish a fund known as the "Unappropriated Reserve Fund" for the purpose of meeting unforeseen contingencies and emergencies of the City for such amount as established by the Council. Said fund shall remain intact except by the affirmative vote of at least five members of the Council with a statement declaring the reason for its use.

SEC. 1213. BONDED DEBT LIMIT. The City shall not incur indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of twenty percent of the total assessed valuation for purposes of City taxation of all the real and personal property within the City, exclusive of any indebtedness that has been or may hereafter be incurred for the purposes of acquiring, constructing, extending, or maintaining municipal utilities for which purpose a further indebtedness may be incurred by the issuance of bonds, subject only to the provisions of the State Constitution and of this Charter.

No bonded indebtedness which shall constitute a general obligation of the City may be created

unless authorized by the affirmative votes of a majority of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in substantial compliance with the provisions of the State Constitution and of this Charter.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130; filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

SEC. 1214. PRESENTATION OF DEMANDS. (Repealed Resolutions Chapter 152, Statutes 1961).

SEC. 1215. ACTIONS AGAINST THE CITY. (Repealed Resolutions Chapter 152, Statutes 1961).

SEC. 1216. INDEPENDENT AUDIT. The Council shall employ at the beginning of each fiscal year a public accountant who shall, at such time or times as may be specified by the Council, and at such other times as he shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of all such other officers, employees or departments as the Council may direct. 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 to the Chief Administrative Officer, Controller, Treasurer, and City Attorney, respectively, and three 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.

SEC. 1217. REGISTERING WARRANTS. Warrants on the City Treasurer which are not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from the date of registration at such rate as shall be fixed by the Council by resolution.

SEC. 1218. MUNICIPALLY OWNED UTILITIES. The Council through the Chief Administrative Officer shall endeavor to make each municipally owned utility financially self-sustaining. After providing for depreciation reserves and amortization of general obligation and revenue bonds issued for such utility and for reasonable accumulation of reserves for improvement and expansion, and for deposits into special funds created to secure revenue bonds issued for such utility, each utility shall apply all annual profits

thereafter remaining to rate reductions, subject to any limitations on the application of such profits or on rate reductions contained in any resolution of the Council relating to the issuance of revenue bonds for such utility. No municipally owned utility shall be operated for the benefit of other municipal functions nor be used directly or indirectly as a general revenue-producing agency for the City, but may pay to the City such amounts of money, in lieu of property and other taxes normally placed upon private business enterprises, as the Council may provide by ordinance and may also pay to the City for any lawful purpose such amounts of surplus annual profits as may be permitted by the provisions of any resolution of the Council relating to the issuance of revenue bonds.

SEC. 1219. OFF-STREET VEHICULAR PARKING. That the City of Fresno, in addition to all other powers elsewhere enumerated in this Charter, shall have the power to acquire (whether by purchase, lease, eminent domain or otherwise) construct, establish, improve, extend, maintain, operate, administer, lease, sublease and let off-street vehicular parking facilities and places within the City of Fresno in order to relieve traffic congestion and promote the welfare of the citizens and inhabitants thereof.

Without limiting the generality of the next preceding paragraph, the City shall have the power:

- (a) To acquire lands and property and rights-of-way necessary and convenient for use as parking places;
- (b) To acquire lands and property and rights-of-way necessary and convenient for the opening, widening, straightening and extending of streets or alleys necessary or convenient for ingress or egress from any parking place herein established;
- (c) To acquire by condemnation, purchase, or gift any property or any interest therein. Any lands or property necessary or convenient for off-street vehicular parking places may be acquired in fee simple by condemnation or otherwise;
- (d) To improve any lands acquired by the construction thereon of garages or other buildings or improvements necessary or convenient for off-street vehicular parking purposes;
- (e) To collect fees or charges to pay all or any part of purchasing, improving, repairing or operating off-street vehicular parking. To establish and regulate rates and charges for all services provided the users of such facilities;
- (f) To establish funds for such system or systems and place limitations upon the use of moneys therefrom;
- (g) To establish off-street vehicular parking places only within the City of Fresno;
- (h) To make all necessary rules and regulations regarding the operation and maintenance of off-street vehicular parking facilities;

(i) To issue revenue bonds and refunding revenue bonds for the purchase, acquisition, construction, improvement, operation and maintenance of any and all off-street vehicular parking facilities so acquired and to evidence such obligation for payment, discharge and retirement of the cost of such facilities, improvements and projects by the issuance of revenue bonds therefor, including refunding revenue bonds, in negotiable or non-negotiable form and payable solely out of the revenue derived from the operation, and control of such off-street vehicular parking facilities, in accordance with the procedure established by Section 1222 of this Charter;

(j) To bind, allocate, pledge and authorize payment of all or any part of the net revenues collected from the establishment and operation of parking meters within this city for periods of years for the payment of operation and maintenance costs of such off-street vehicular parking facilities and principal and interest on all revenue bonds issued and outstanding, until all of such bonds have been fully paid;

(k) To do any and all acts or things necessary or appropriate to carry out the purpose of this section.

SEC. 1220. AIRPORT FACILITIES. The City of Fresno shall have the power to acquire (whether by lease, purchase, eminent domain or otherwise), construct, establish, improve, extend, maintain, operate, administer, lease, sub-lease and let airport facilities, including but not limited to runways, hangars, warehouses, buildings for the repair or manufacture of airplanes or airplane parts, control towers, traffic control devices and administration facilities within or without the City of Fresno to promote and facilitate air traffic and promote the welfare of the citizens and inhabitants thereof.

Without limiting the generality of the next preceding paragraph, the City shall have the power:

(a) To acquire lands and property and rights-of-way necessary and convenient for use for airport purposes;

(b) To acquire by condemnation, purchase, or gift any property or any interest therein;

(c) To improve any lands acquired by the construction thereon of runways, hangars, warehouses, buildings for the repair or manufacture of airplanes or airplane parts, or other buildings or improvements necessary or convenient for airport purposes;

(d) To collect fees, rentals or charges to pay all or any part of purchasing, improving, repairing or operating airport facilities; to establish and regulate rentals, rates and charges for all services provided the users of such facilities;

(e) To establish funds for any or all such facilities and place limitations upon the uses of the money therefrom;

(f) To make all necessary rules and regulations regarding the operation and maintenance of airport facilities or properties;

(g) To issue revenue bonds and refunding revenue bonds for the purchase, acquisition, construction, improvement, extension, operation or maintenance of any and all airport facilities so acquired and to evidence such obligation for payment, discharge and retirement of the cost of such facilities, improvements and projects by the issuance of revenue bonds therefor, including refunding revenue bonds, in negotiable or non-negotiable form and payable solely out of the revenue derived from the operation, control or leasing of such airport facilities or properties or any part thereof, in accordance with the procedure established by Section 1222 of this Charter;

(h) To bind, allocate, pledge and authorize payment of all or any part of the gross revenues collected from airport operations or from lands owned or held for airport purposes of every kind and nature for periods of years, for the payment of operation and maintenance costs of such airport facilities and principal and interest on all revenue bonds or refunding revenue bonds issued and outstanding until all such bonds have been fully paid;

(i) To do any and all acts or things necessary or appropriate to carry out the purposes of this section.

SEC. 1221. OTHER REVENUE-PRODUCING UTILITIES. The City of Fresno shall have power to acquire (whether by lease, purchase, eminent domain or otherwise), construct, establish, improve, extend, maintain, operate, administer, lease, sublease and sublet any revenue-producing utility, including any and all improvements, buildings, systems, plants, works, facilities or undertakings used or useful in

(i) the obtaining, conserving, treating, and supplying of water for domestic use, irrigation, sanitation, industrial use, fire protection, recreation, or any other public or private uses;

(ii) the collection, treatment or disposal of garbage or other solid waste matter;

(iii) the collection, treatment or disposal of sewage, liquid industrial waste matter, or waste or storm water, including drainage.

Each such utility shall include all parts thereof, whether now in existence or hereafter constructed or acquired, and all improvements and extensions thereof hereafter acquired, and all lands, easements, rights-of-way, water rights, licenses, franchises, equipment, improvements or facilities whatsoever appurtenant or relating thereto, within or without the City of Fresno to promote the welfare of the citizens and inhabitants thereof.

Without limiting the generality of the next preceding paragraph, the City shall have power:

(a) To acquire lands and property and rights-of-way and any rights, licenses or franchises necessary or convenient for use for a revenue-producing utility;

(b) To acquire by condemnation, purchase or gift any property or interest therein;

(c) To improve any lands acquired by any construction necessary or convenient for the

purposes of any such utility;

(d) To collect fees, rentals or charges to pay all or any part of purchasing, improving, or operating any such utility; and to establish and regulate rentals, rates and charges for all services provided the users of any such utility;

(e) To establish funds for any such utility and place limitations upon the uses of the money therefrom;

(f) To make all necessary rules and regulations regarding the use, operation and maintenance of any such utility;

(g) To issue revenue bonds and refunding revenue bonds for the purchase, acquisition, construction, improvement, extension, operation or maintenance of any such utility and to evidence such obligation for payment, discharge and retirement of the cost of such facilities, improvements and projects by the issuance of revenue bonds therefor, including refunding revenue bonds, in negotiable or non-negotiable form and payable solely out of the revenue derived from the operation, control or leasing of all or any part of any such utility, in accordance with the procedure established by Section 1222 of this Charter;

(h) To bind, allocate, pledge and authorize payment of all or any part of the gross revenues of any such utility or of any improvement or extension thereof for periods of years, for the payment of operation and maintenance costs of such utility and principal and interest on all revenue bonds or refunding revenue bonds issued and outstanding until all such bonds have been fully paid;

(i) To do any and all acts or things necessary or appropriate to carry out the purposes of this section.

SEC. 1222. REVENUE BONDS.

(a) Revenue bonds may be authorized by the Council of the City of Fresno by resolution of five affirmative votes of the Council at a duly assembled meeting. All such revenue bonds so issued shall contain a recital on their face that neither the payment of the principal of or interest thereon constitutes a debt, liability, or obligation of the City of Fresno, except as provided in this section. All such revenue bonds shall be payable either

(1) exclusively from the revenues derived from the operation of off-street vehicular parking facilities and revenues from parking meters, or such specific portions thereof as may be allocated and pledged to the payment of such revenue bonds; or

(2) exclusively from the revenues derived from the operation of airport facilities or properties, or such specific portions thereof as may be allocated and pledged to the payment of such revenue bonds; or

(3) exclusively from the revenues derived from the operation of any revenue-producing

utility referred to in Section 1221 of this Charter, or such specific portions thereof as may be allocated and pledged to the payment of such revenue bonds, in accordance with the terms of the resolution under which said revenue bonds are authorized to be issued.

Reference on the face of such revenue bonds to such resolution by its date of adoption shall be sufficient to incorporate all of the provisions thereof into the body of said revenue bonds and their appurtenant coupons. Each taker and subsequent holder of said revenue bonds or coupons, whether such coupons are attached to or detached from said revenue bonds, shall have recourse to all of the provisions of such resolution and shall be bound thereby.

(b) The Council of the City of Fresno shall have power and is hereby authorized:

(1) To fix the aggregate principal amount of all revenue bonds which may from time to time be issued for any purpose authorized by this section; to prescribe the purpose or purposes for which the same may be issued and to provide for the issuance of additional bonds and the security therefor;

(2) To prescribe the form and denomination of the revenue bonds and the terms and conditions upon which the same shall be issued, paid, and retired. Revenue bonds may be issued in one or more series; may bear such date or dates; may mature at such time or times not exceeding forty years from their respective dates (provided that if any authorized issue of revenue bonds is divided into two or more series or divisions, the maximum maturity date of each such series or division shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue); may be in the form of serial bonds or sinking fund bonds with serial or term maturities; may bear interest at a rate or rates not exceeding nine percent per annum, payable annually or semi-annually; may be in such denomination or denominations and in such form, either coupon or registered; may carry such registration or conversion privileges; may be executed in such manner may be payable in such medium of payment and at such place or places within or without the State of California; may be subject to such terms of redemption with or without premium; may be subject to call or redemption prior to their fixed maturity date, provided the right to exercise such call is expressly stated on the face of the bonds; all as provided in such resolution or resolutions of said Council; provided further, that all revenue bonds maturing subsequent to five years from their date may be issued as callable bonds, subject to redemption at the option of the City upon such terms as the Council shall determine;

(3) To provide, in and by the resolution or resolutions authorizing the issuance, the terms and conditions upon which all such revenue bonds issued thereunder may be declared or become due and payable in the event of said defaults, if any, as may be specified in said resolution; may also provide for the replacement of mutilated, destroyed, stolen, or lost bonds;

(4) To provide in and by such resolution for the authentication and execution of revenue bonds by manual, lithographed, or mechanically reproduced facsimile signatures of any officers of the Council and also to provide for additional authentication of such revenue

bonds by any trustee or fiscal agent appointed by said Council. If any of the officers whose signatures on bonds or coupons cease to be officers before the delivery of said revenue bonds or coupons to the purchasers thereof, their signatures or countersignatures shall nevertheless be valid and of the same force and effect as if such officers had remained in office until the delivery of the revenue bonds and coupons;

(5) To provide by resolution, pending the preparation of the definitive bonds, for the issuance of interim receipts or temporary bonds exchangeable for definitive bonds when such definitive bonds are ready for delivery in such form and with such provisions as may be provided in said resolution, and further to provide that notwithstanding the form or tenor of such interim receipts or temporary bonds that such interim receipts, temporary bonds, and also all revenue bonds shall at all times be, and be treated as, negotiable instruments for all purposes;

(6) To provide that the proceeds of the sale of said revenue bonds shall be applied to the payment of all costs and expenses to be incurred in connection with the issuance of said bonds, including fiscal agents, and legal expenses, working capital and interest, which it is estimated will accrue during the construction period and for not exceeding six months thereafter on money borrowed or which it is estimated will be borrowed through the issuance of such revenue bonds.

(c) Revenue bonds authorized hereby may be sold by the Council from time to time in such manner as the Council may determine and at a price below the par value thereof; provided that the maximum net interest cost on revenue bonds sold below par or face value shall not exceed an average of nine percent per annum, payable annually or semiannually, to the respective maturity dates of said revenue bonds as determined by standard tables of bond values.

(d) The Council shall have authority to provide for the issuance, sale, or exchange of refunding revenue bonds for the purpose of redeeming, retiring, or refunding any revenue bonds issued under this Charter subject to any limitations contained in the resolution providing for the issuance of such revenue bonds. All provisions of this section applicable to the issuance of revenue bonds are hereby made applicable to the issuance of refunding bonds and to the sale or exchange thereof. Refunding revenue bonds may be issued in the principal amount sufficient to provide funds for the payment of all revenue bonds to be refunded thereby and in addition for the payment of all expenses incident to the calling, retiring, or paying of such outstanding revenue bonds in the issuance of such refunding bonds. Such expenses may include any amount necessary to be made available for the payment of interest upon such refunding bonds from the date of sale thereof to the date of payment of the revenue bonds to be refunded and also the premium, if any, necessary to be paid in order to call and retire the outstanding revenue bonds and the interest accruing thereon to the call date.

(e) All revenue bonds issued by the Council shall be secured by a lien upon the gross revenue of the project for the acquisition, construction and completion of which said revenue bonds are to be issued, and

(1) In the case of revenue bonds for off-street vehicular parking facilities, revenues from parking meters, as shall be more fully described in the resolution of the Council

authorizing the issuance of said bonds, and said Council shall have power in and by such resolution to pledge and assign as security for such revenue bonds all or any part of the gross revenues of any project for the acquisition or construction of which said revenue bonds are to be issued, including revenues from improvements and extensions thereof thereafter constructed or acquired, as well as the revenues of existing off-street vehicular parking project operated or controlled by said City of Fresno and also any sums allocated by the Council from the operation of parking meters to the revenue bond fund for payment of expenses, principal, and interest of the revenue bonds; or

(2) In the case of revenue bonds for airport facilities, revenues of any existing airport facilities or properties operated or controlled by the City of Fresno and of any improvements and extensions thereof thereafter constructed or acquired as shall be more fully described in the resolution of the Council authorizing the issuance of said bonds, said Council shall have power in and by such resolution to pledge and assign as security for such revenue bonds all or any part of the gross revenues of any project for the acquisition or construction of which said revenue bonds are to be issued, including revenues from improvements and extensions thereof thereafter constructed or acquired, and also any sums allocated by the Council from the gross revenues collected from any existing airport facilities or properties, including revenues from improvements and extensions thereof thereafter constructed or acquired, to the revenue bond fund for payment of expenses, or for the payment or security of the principal of and interest on the revenue bonds; or

(3) In the case of revenue bonds for any other revenue-producing utility, revenues of any existing portion or portions of such utility operated or controlled by the City of Fresno and of any improvements or extensions thereof thereafter constructed or acquired as shall be more fully described in the resolution of the Council authorizing the issuance of said bonds, and said Council shall have power in and by such resolution to pledge and assign as security for such revenue bonds all or any part of the gross revenues of any project for the acquisition or construction of which said revenue bonds are to be issued, including revenues from improvements and extensions thereof constructed or acquired, and also any sums allocated by the Council from the gross revenues collected from any existing portion or portions of such utility, including revenues from improvements and extensions thereof thereafter constructed or acquired, to the revenue bond fund for payment of expenses, or for the payment or security of the principal of and interest on the revenue bonds.

Sums required to meet the payment of interest on and principal of revenue bonds issued under this Charter shall be secured by a first, direct, and exclusive charge and lien upon all revenues described in the resolution authorizing the issuance of such revenue bonds and upon all sinking funds, reserve funds, or redemption funds created for the further security of said revenue bonds and the income therefrom, and all such revenues and funds and the income therefrom shall constitute a trust fund for the security and payment of such revenue bonds and shall not be used for any other purpose as long as such bonds, or any of them, and the interest thereon are outstanding and unpaid, except that in the resolution providing for the issuance of said revenue

bonds, there may be apportioned, so long as the interest on and principal of such revenue bonds is paid as the same becomes due and payable, together with all other charges required by such resolution for the protection of or better securing of such revenue bonds, such sums as may be specified in such resolution for the payment of maintenance and operating costs of such projects and of any existing facilities or utility the revenues of which are pledged and assigned as security for such revenue bonds, or for any other lawful purpose of the City of Fresno, but only to the extent specified and described in said resolution.

(f) Any resolution of the Council providing for the issuance of revenue bonds may also, in addition to all other appropriate agreements deemed necessary or advisable by the Council, contain such covenants and agreements as it deems necessary or advisable for the better security of the revenue bonds issued thereunder. The Council is hereby authorized and empowered in and by the terms of any such resolution to covenant and agree with the holders of any of said revenue bonds so long as the same shall be outstanding as follows:

(1) That the proceeds of the sale of said revenue bonds shall be deposited in a fund separate and apart from all other funds of the City of Fresno and shall be applied solely and exclusively to the object and purpose for which said revenue bonds are herein authorized to be issued and that any proceeds remaining unexpended after the object and purpose for which said revenue bonds are authorized to be issued shall have been completed shall be applied to the payment of principal and interest of such revenue bonds and that none of said moneys shall be transferred to any other fund of the City of Fresno or used for any purpose other than as specified in said resolution;

(2) That the City of Fresno shall operate or cause to be operated, all projects and properties acquired from the proceeds of the sale of said revenue bonds continuously so long as said revenue bonds are outstanding in an efficient manner and in good working order and condition, and will make all needful and necessary repairs, improvements, and replacements;

(3) That the Council will establish and maintain reasonable rentals, rates, tolls, and/or charges for all properties maintained, owned, operated, leased, or controlled by it (including parking meters in the case of off-street parking projects), or acquired from the proceeds of the sale of revenue bonds and that such rentals, rates, tolls, and/or charges shall at all times be adequate to yield annual revenue equal to all redemption payments and interest charges on said revenue bonds as the same fall due, together with such additional sums as may be required for any sinking fund, reserve fund, or any other special fund provided for the security of revenue bonds or for any maintenance and operation, depreciation, reserve fund, or other charges in connection with the operation of any properties of the City of Fresno, and further that such rentals, rates, tolls, and/or charges shall not be reduced below an amount sufficient to provide funds to meet all obligations set forth in the resolution authorizing the issuance of such revenue bonds. No person shall be permitted to use or operate any of the facilities or properties of the City of Fresno or to make use thereof, except upon payment of the regularly established charge therefor, except only, as may be provided in the resolution authorizing the issuance of such revenue bonds, in the case of firemen, policemen, and other essential public

employees, to be specifically set forth in such resolution. All such rentals, rates, tolls, and/or charges shall be paid only in such coin or currency as on the date of payment is legal payment for public or private debts, or in scrip or tokens issued only upon payment of the face value of such coin or currency. Any agreement contained in said resolution with respect to such rentals, rates, tolls, and/or charges shall be binding upon the City of Fresno and upon its officers, departments, and boards thereof;

(4) That accurate books and records of account showing all revenues received from the operation of all properties by the City of Fresno, and all expenditures thereof, will be kept and provided, and that all books and records of the City of Fresno pertaining to the operation of such off-street vehicular parking places or airport facilities or other revenue-producing utility shall be open at all times during business hours to the inspection of the holders of one or more of the revenue bonds, or of any percentage of such holders or their duly authorized representatives as may be provided in such resolution. That annual or other periodic statements of the condition of all such off-street vehicular parking properties or airport facilities or other revenue-producing utility operated by the City of Fresno will be furnished to the holders of such revenue bonds and that summaries thereof will be published at least annually in the official newspaper of the City of Fresno. The resolution providing for the issuance of revenue bonds may also provide that the books and records of the City of Fresno pertaining to the operation of such off-street vehicular parking places or airport facilities or other revenue-producing utility shall be audited by independent public accountants in such manner and under such circumstances as may be set forth in the resolution;

(5) That no part of the said properties in the City of Fresno shall be sold, leased, mortgaged, or otherwise encumbered or disposed of except upon such terms and conditions as may be defined in said resolution and that if any part of the properties of the City of Fresno shall be taken by eminent domain or other proceedings authorized by law, the proceeds therefrom shall be applied to the replacement of properties of like kind and character or to the payment and retirement of revenue bonds, or as may be set forth in said resolution;

(6) That said resolution may contain such other terms and conditions with respect to the payment of the bonds, the operation of said off-street vehicular parking facilities or airport facilities or other revenue-producing utility and properties by the City of Fresno, payment of claims, or the obtaining of insurance of any kind or character on any of said properties of the City of Fresno and the payment of the premium therefor, events of default and the rights of the holders of revenue bonds in the event thereof, the procedure under which the terms and conditions of the revenue bonds and of the resolution authorizing the issuance thereof may be amended at a meeting of the bondholders or by written assent of bondholders without a meeting and the manner in which such consent of the bondholders may be given, either with or without a meeting, and the effect of such an amendment or modification upon the rights of all holders of the bonds and coupons and also all other agreements deemed necessary or desirable in order to secure said revenue bonds or to make the same more marketable.

(g) The validity of any revenue bonds issued by the Council of the City of Fresno shall not be dependent on or affected in any way by any proceedings taken by the City of Fresno for acquisition, construction, or completion of any properties or projects for which said bonds are to be issued or any contracts made in connection with the acquisition, construction, or operation of any such properties. Said revenue bonds shall be incontestable and shall by their issuance and delivery conclusively establish the due performance of all conditions precedent to their issue.

(h) The City of Fresno may, at any time after the adoption of a resolution providing for the issuance of any revenue bonds under this Charter and prior to the actual delivery of such bonds to any purchaser thereof, bring an action in the Superior Court of Fresno County to determine the validity of any such bonds. Such action shall be in the nature of a proceeding *in rem*. The jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some newspaper of general circulation published in Fresno County, such newspaper to be designated by the Judge of the Court having jurisdiction of the proceedings. The jurisdiction shall be completed within ten days after publication of the summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such revenue bonds. Such action shall be speedily tried and judgment rendered declaring the bonds either valid or invalid. Either party shall have the right to appeal to the Supreme Court of the State of California at any time within thirty days after the entry of such judgment and such appeal shall be heard and determined by said Court within three months from the time of submission thereof to said Court.

(i) The provisions of this section constitute full and complete authority for the issuance of revenue bonds as herein provided by the Council of the City of Fresno and no other procedure or proceedings, consents, approvals, orders, or permission from any municipal officer or a board of the City of Fresno shall be required for the acquisition, construction, or completion of any properties or the issuance of any revenue bonds except as specifically provided in Section 1219, 1220, or 1221 of this Charter. The powers and authorities conferred by said sections of this Charter are in addition to and supplemental to all other powers and authorities conferred upon the City of Fresno. The method provided in said sections for the acquisition of properties and the issuance of revenue bonds shall be deemed an additional method for acquiring such properties and providing funds therefor, provided that the City of Fresno may, in its discretion, acquire any properties of a like or similar nature and issue general obligation bonds of the City of Fresno therefor, but subject to the conditions that the City of Fresno shall not, while any revenue bonds are issued or outstanding, acquire, construct, or complete any competing projects or properties similar to those maintained or operated through the issuance of revenue bonds by the Council. Revenue bonds issued under this Charter shall not be taken into consideration in determining the bonded indebtedness which the City of Fresno is authorized to incur pursuant to Section 1213 of this Charter.

(Amendment ratified 1971 General Municipal Election; approved, Assembly Concurrent Resolution No. 130, filed with Secretary of State on June 18, 1971, Res. Ch. 77, Stat. 1971.)

SEC. 1223. REVENUE BONDS. Notwithstanding anything contained in the preceding Sections 1218 to 1222, the Council may issue revenue bonds for any lawful purpose, in such manner and upon such terms and conditions as it may fix and establish by the provisions of a procedural ordinance. Such bonds shall be payable only out of revenues specified by the Council and shall not constitute an indebtedness of the City. This section shall be deemed to provide a complete, additional and alternative method for doing the things authorized by such preceding sections, and shall be regarded as supplemental and additional to the powers conferred thereby or by other laws.

(Amendment ratified 1981 Municipal Election, March 3, 1981.)

SEC. 1224. PROHIBITION ON TAXING UTILITIES USERS. The city shall not tax any person for using any utility service, including but not limited to, intrastate telephone communication service, gas delivered through mains or pipes, and electrical energy. This prohibition shall take effect for the tax year beginning on July 1, following the passage of this amendment and shall also apply to each fiscal year thereafter.

(Amendment ratified 1981 Municipal Election, March 3, 1981.)

SEC. 1225. WATER METERS PROHIBITED. The City shall not, directly or indirectly (1) install or require the installation of water meters at single-family housing units; (2) bill or otherwise levy charges for single-family residential water consumption at a metered rate; or (3) charge the property owner or tenant for the cost of installing, maintaining, or removing residential water meters from single-family residents.

(Amendment ratified 1992 General Election, November 3, 1992.)

ARTICLE XIII FRANCHISES

SEC. 1300. GRANTING OF FRANCHISES. Any person, firm or corporation furnishing the City or its inhabitants with transportation communication, terminal facilities, water, light, heat, electricity, gas, power, refrigeration, storage or any other public utility or service, or using the public streets, ways, alleys or places for operation of plants, works or equipment for the furnishing thereof, or traversing any portion of the City for the transmitting or conveying of any such service elsewhere, may be required by ordinance to have a valid and existing franchise therefor. The Council is empowered to grant such franchise to any person, firm, corporation, whether operating under an existing franchise or not, and to 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 of such grants, or the making thereof, all subject to the provisions of this Charter.

Nothing in this section, or elsewhere in this article, shall apply to the City, or to any department thereof, when furnishing any such utility or service.

SEC. 1301. RESOLUTION OF INTENTION. NOTICE AND PUBLIC HEARING. Before granting any franchise, the 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 Council and be heard thereon. It shall direct the City Clerk to publish said resolution at least once, within fifteen days of the passage thereof, in a newspaper of general circulation within the City. Said notice shall be published at least ten days prior to the date of the hearing.

At the time set for the hearing, or at any adjournment thereof, the Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the Council shall determine that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon.

SEC. 1302. TERM OF FRANCHISE. Every franchise shall state the term for which it is granted, which shall not exceed fifty years.

SEC. 1303. 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 therein 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.

SEC. 1304. RAILROAD CORPORATIONS. In respect of a railroad corporation, as such term is used in Section 7555 of the Public Utilities Code of California, the term "franchise" as used in this article includes "franchise or permit" as used in said Section 7555.

ARTICLE XIV ELECTIONS

SEC. 1400. DIRECT PRIMARY AND GENERAL MUNICIPAL ELECTIONS.

(a) Beginning in 1996, direct primary elections for the nomination of candidates to be voted for at the ensuing general municipal election and for such other purposes as the Council may prescribe shall be held in the City on same date as the statewide direct primary election as provided in the Elections Code of the State of California. If any candidate for a particular office receives a majority of all votes cast for a particular office, that candidate shall be declared elected and no general municipal election shall be held for that office.

(b) Beginning in 1996, general municipal elections for the election of officers and for such other purposes as the Council may prescribe shall be held in the City on the same date as the statewide general election as provided in the Elections Code of the State of California. Notwithstanding subsections 1400(a) and (b), the Council may by ordinance or resolution provide for such elections to be held within thirty-one days of either of such dates for the purpose of consolidation with any election to be conducted in the County of Fresno, State of California.

(Amendments ratified 1965 General Municipal Election; approved, Assembly Concurrent Resolution No. 112, filed with Secretary of State on May 20, 1965, Ch. 96, Stat. 1965.)

(Amendment ratified 1975 General Municipal Election.)

(Amendment ratified 1980 Special Municipal Election, June 3, 1980.)

(Amendment ratified 1996 Primary Election, March 26, 1996.)

SEC. 1401. SPECIAL MUNICIPAL ELECTIONS. All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special municipal election.

A special municipal election shall be held for the election of the first Mayor and first Councilmen under this Charter on the second Tuesday in April following the filing of the concurrent resolution of the Legislature approving this Charter with Secretary of State.

SEC. 1402. PROCEDURE FOR HOLDING ELECTIONS. 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 exist or hereafter may be amended, for the holding of elections in general law cities so far as the

same are not in conflict with this Charter.

SEC. 1403. INITIATIVE, REFERENDUM AND RECALL. There are hereby reserved to the electors of the city the powers of initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

SEC. 1404. BALLOT MEASURES. Any measure submitted to the voters at a municipal election shall be worded so that a "yes" vote indicates approval of the measure proposed and a "no" vote indicates disapproval.

(Amendment ratified 1993 Primary Election, March 2, 1993.)

ARTICLE XV GENERAL PROVISIONS

SEC. 1500. VALIDITY OF CHARTER. If any provision of this Charter, or the application thereof to any person or circumstance is held invalid, the remainder of the Charter, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

SEC. 1501. DEFINITIONS. Unless the provision or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive;
- (b) "City" is the City of Fresno, and "department", "board", "commission", "agency", "officer", or "employee", is a department, board, commission, agency, officer or employee, as the case may be, of the City of Fresno;
- (c) "County" is the County of Fresno;
- (d) "State" is the State of California;
- (e) "Council" is the City Council of the City of Fresno;
- (f) A "Councilmember" means any one of the seven members of the Council.
- (g) *Reserved.*
- (h) "Newspaper of general circulation within the city" is as defined by Section 6000 of the Government Code of the State of California.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 1502. VIOLATIONS. The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction by a fine of not exceeding one thousand dollars (\$1000) or by imprisonment for a term of not exceeding one year, or by both such fine and imprisonment.

SEC. 1503. IMPLEMENTATION OF COUNCIL-MAYOR FORM OF GOVERNMENT. The Mayor-Council form of government shall become operative on the first Tuesday after the first Monday in January, 1997.

The Council shall redraw the current Council office boundaries no later than June 30, 1995, to add a Council office designated as Councilmember Number 7. This office shall be filled for an initial two-year term at either the direct Primary or General Municipal Election of 1996, taking office on the first Tuesday after the first Monday in January, 1997. Thereafter, terms for the office of Councilmember Number 7 shall be for four-year terms.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 1504. EXPANSION OF COUNCIL MEMBERSHIP.

(a) At such time as the population of the City of Fresno reaches 540,000, the Council shall add two Council offices to the Council designated as Councilmember Number 8 and Councilmember Number 9. For making a determination as to whether the 540,000 population figure has been reached, the City shall utilize census data from the Demographic Research Unit of the State Department of Finance issued annually on May 1st or a similarly reliable source of population figures in the event the Demographic Research Unit no longer provides such information. Within 180 days of receipt of validated population figures evidencing this population total, the Council shall redraw the Council district boundaries, after a duly noticed public hearing, to reflect the two additional Council seats.

(b) The two seats shall be initially filled in the next regular municipal election held in which City offices are filled. Both Councilmember seats 8 and 9 shall be filled at said next regular municipal election. Thereafter, Councilmember seat number 8 shall be filled in the same electoral cycle as even-numbered Council seats and Councilmember seat number 9 shall be filled in the same electoral cycle as odd-numbered Council seats. Depending on when the election cycle for filling Councilmember seat numbers 8 and 9 falls, the initial term for one of the two seats shall be a two-year term.

(c) At such time as the Councilmembers designated as Councilmember Number 8 and Councilmember Number 9 are installed in office the following provisions shall be deemed changed:

(1) All provisions in this Charter for a requirement of an "affirmative vote of at least four members of the Council" or any similar language requiring four votes shall be deemed changed to require "affirmative vote of at least five members of the Council."

(2) All provision of this Charter for a requirement of an "affirmative vote of at least five members of the Council" or any similar language requiring five votes shall be deemed changed to require "an affirmative vote of at least six members of the Council."

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

SEC. 1505. OPERATIVE DATE OF CHARTER AMENDMENTS. The provisions of the various amendments to the Charter adopted in the May 4, 1993 ballot

shall become effective as provided by law but shall be operative in accordance with the following rules which are intended to provide a smooth and efficient transition from the present municipal election cycle to an election cycle whereby municipal elections are consolidated with statewide elections held in June and November of even-numbered years and from the present Council-Manager form of government to a strong Mayor form of government to be known as Mayor-Council form of government:

(a) The amendments of Sections 303 and 1400 of the Charter as set forth in the resolution submitting the ballot measure to the voters shall be operative on and after January 1, 1994; until that date Sections 303 and 1400 as they existed on May 3, 1993, shall remain in full force and effect; on and after January 1, 1994, Sections 303 and 1400 as they existed on May 3, 1993, shall be deemed repealed, of no further force and effect and superseded by said amended sections as approved on May 4, 1993.

(b) The amendment of Sections 203, 204, 300, 302, 305, 400, 401, 500, 501, 600, 603, 605, 609, 610, 702, 703, 704, 705, 1000, 1202, 1501 of the Charter as set forth in the resolution submitting the ballot measure to the voters shall be operative on and after the first Tuesday after the first Monday in January, 1997; until that date said sections as they existed on May 3, 1993, shall remain in full force and effect; on and after January 1997, said sections as they existed on May 3, 1993, shall be deemed repealed, of no further force and effect and superseded by said amended sections as approved on May 4, 1993.

(c) Sections 609 and 610, as added to the Charter, and the repeal of Section 707 and subsection 1501(g) as set forth in the ballot measure approved by the voters in May 4, 1993 shall be operative only on and after the first Tuesday after the first Monday in January, 1997.

(d) All other amendments to the Charter adopted by the voters on May 4, 1993, shall be deemed operative on their effective date as provided by law or by their operative language.

(Amendment ratified 1993 General Municipal Election, April 27, 1993.)

Appendix III

Resolution 2010-219 Establishing the Charter
Review Committee



RESOLUTION NO 2010-219

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO,
CALIFORNIA, ESTABLISHING THE CHARTER REVIEW
COMMITTEE.

WHEREAS, in 1992 the City of Fresno, pursuant to recommendations of the Little Hoover Commission, authorized a Charter Review Committee, from which the City received a report on recommended changes to our City Charter resulting in the city's current strong-mayor form of government; and,

WHEREAS, it is approaching twenty years since the City of Fresno last examined its Charter comprehensively; and,

WHEREAS, Fresno has experienced profound changes in population, technology, government, structure, industry, regional influence, and civic responsibility and practice; and,

WHEREAS, there have been three administrations of the strong-mayor form of government and with the experience of these administrations, now is the appropriate time to examine our Charter and pursue efficiencies and best practices where needed.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. The Charter Review Committee is hereby established and shall operate consistent with applicable law, including the Ralph M. Brown Act (Government Code Section 54950 et. seq.).
2. The purpose of the Charter Review Committee is to evaluate and make recommendations to the Fresno City Council on the below referenced topics, while also retaining some limited discretion to investigate other areas deemed relevant and important:

- a. Whether the City shall create an Emergency Reserve Fund by setting aside and maintaining a percentage of General Fund appropriations (§ 1212);
- b. Whether the City shall amend Charter Section 1233 to reduce the 20% limit on General Obligation Bonds to 10% of City assets, and to add a provision that places a limit of 10% on the net debt service for General Fund appropriations;
- c. Whether the Charter should be amended to require a super majority vote on all debt financing decisions not contained in the adoption of the annual budget by the Council;

Adopted 9-30-10

Approved 9-30-10

Effective Pending audit review

2010-219



- d. Whether the City should establish a charter section that would trigger due diligence and oversight policies, using a private sector banking model; require the City Attorney and City Manager to provide written reports to the Council and require a super majority vote to approve, for any request for financial assistance exceeding \$1,000,000;
- e. Whether the City should require a Fiscal Impact Report that includes a detailed financial analysis of wage and benefit costs and an actuarial report, if deemed necessary by the City Managers, for all Memorandum of Understanding labor agreements;
- f. Whether the Council should affirm, by majority vote, the hiring of the City Manager and his/her compensation contract, assuming reasonable affirmation not be withheld;
- g. Whether the Charter clearly identifies the jurisdictional authority to organize and structure administrative departments lies with the Mayor, subject to Council confirmation;
- h. Whether the Charter should require annual budgets be in a two-year format and also include extended projections;
- i. Whether the Mayor shall release the proposed budget to the Council at least sixty rather than thirty days prior to the beginning of each fiscal year (§ 1203);
- j. Whether the Mayor's veto powers should extend to all legislative land use decisions (§ 605 (c)(2));
- k. Whether the Mayor should have veto authority over the decisions of the Civil Service Board (§ 1002);
- l. Whether a separate entity instead of the Council should establish Council and Mayor compensation (§ 308);
- m. Whether a provision should be included in the Charter, as a counterpart to § 706, that would provide that the Mayor, City Manager, and Staff shall not interfere with the execution by the City Council of its legislative powers and duties (related to § 500 *et seq.*);
- n. Whether a provision should be included in the Charter that information requests by Council be responded to by City Staff in a timely fashion relative to the time sensitivity of the subject matter and the response be sufficiently detailed to provide an adequate answer.



- o. Whether Council should have the exclusive authority to appoint and remove their respective Council assistants (§ 500);
- p. Whether the Charter should provide that the Council Presidency is based on a rotational system with majority confirmation;
- q. Whether the City's campaign contribution policy should be modified (§ 309);
- r. Whether the Charter should include a provision obligating City employees to report suspected illegal activities to the City Attorney's or City Manager's office;
- s. Whether the Mayor should be able to maintain separate legal counsel;
- t. Whether a provision should be included in the Charter that would enable Council to direct the Controller to respond to financial inquiries posed by Council without processing such inquiries through the City Manager, assuming such inquiries would not pose an unreasonable burden on staff or otherwise interfere with the City Manager's administrative service under section 706;
- u. Whether the City Controller shall submit directly to Council a quarterly financial statement (§ 804 (c));
- v. Whether the Controller should certify: 1) the specific funding source(s) for all newly created programs; and 2) the reliability of funding for the life of the program. In the case of defunding, where the monies are transferred;
- w. Whether the organizational structure and role of the RDA and the City should be examined to eliminate redundancies in services and develop a more efficient model for revitalization;

3. The Charter Review Committee shall automatically terminate one hundred and eighty (180) days (six (6) months) from its creation unless expressly provided for herein or extended by Council resolution.

4. The membership shall consist of:

- a. Nine (9) members. The Committee will elect among themselves a Chairperson and a Vice-Chairperson who will preside over the meetings and through whom informational inquiries in writing will pass to City staff.



b. The members shall be appointed in the following manner: each Councilmember shall have one (1) appointment to the Committee and the Mayor shall have two (2) appointments to the Committee.

c. Qualifications for the members include: residency in the County of Fresno.

5. The term of office shall be for the duration of the Charter Review process, not to exceed one hundred and eighty (180) days (six (6) months).

6. The Staff Representative shall be Mark Scott, City Manager with legal support provided by James Sanchez, City Attorney.

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
 COUNTY OF FRESNO) ss.
 CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 30th day of September, 2010.

AYES : Borges, Brand Perea, Sterling, Xiong
 NOES : Dages, Westerlund
 ABSENT : None
 ABSTAIN : None

Mayor Approval: November 12, 2010
 Mayor Approval/No Return: N/A
 Mayor Veto: N/A
 Council Override Veto: N/A

REBECCA E. KLISCH
 City Clerk

BY: Rebecca E. Klisch
 Deputy

APPROVED AS TO FORM;
 CITY ATTORNEY'S OFFICE

BY: [Signature] 9-23-10
 City Attorney (date)

Rev. 09/23/10

November 12, 2010

RECEIVED

Council Adoption:
Mayor Approval:
Mayor Veto:
Override Request:



TO: MAYOR ASHLEY SWEARENGIN
FROM: REBECCA E. KLISCH, CMC
City Clerk

REC 2010 NOV 12 PM 12:08
CITY CLERK, FRESNO CA

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 9/30/10, Council adopted Resolution No. 2010-219, entitled Establishing the Charter Review Committee, Item No. 9:15 A.M. #2 C, by the following vote:

Ayes : Borgeas, Brand, Perea, Sterling, Xiong
Noes : Dages, Westerlund
Absent : None
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before November 22, 2010. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED: [Signature]

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

[Signature]
Ashley Swearengin, Mayor

Date: 11/12/10

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes :
Noes :
Absent :
Abstain :

Appendix IV

List of presenters to the Commission

Report of the Fresno City Charter Review

Appendix IV

Presenters

The following persons made comments or presentations to the Commission and their insights, comments, suggestions and recommendations added much to the deliberations.

<u>Presenters</u>	<u>Organizations Represented</u>
Mark Scott	City Manager
James Sanchez	City Attorney
Mark Scott	City Manager
Lee Brand	Council Member
James Sanchez	City Attorney
James Sanchez	Memo re Role of City Attorney
Ashley Swearengin	Mayor
Mark Scott	City Manager
Blong Xiong	Council Member
Andreas Borgeas	Council Member
Larry Westerlund	Council Member
Clint Oliver	Council Member
Sal Quintero	Council Member
Doug Noll	Fresno Business Council
Deborah Nankivell	Fresno Business Council
Shari Boggess	Civil Service Board
Oliver Baines	Council Member
Mike Prandini	Building Industry Association

Stan McDivitt	City Systems Retirement Adm.
Mike Prandini	Building Industry Association
Venancio Gaona	El Concilio de Fresno
Rebeca Rangel	Central. CA Criminal Justice Committee
Brian Domingos	Greater Fresno Area Chamber of Commerce
Ellie Bluestein	
Jeff Roberts	
Tei Yukimoto	City Attorney's Office
Michael D. Evans	Concerned Citizen