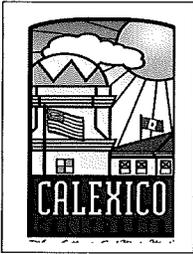


**AGENDA  
ITEM**

**12**



# AGENDA STAFF REPORT

**DATE:** April 19, 2016

**TO:** Mayor and City Council

**APPROVED BY:** Nick Fenley, Interim City Manager 

**PREPARED BY:** Nick Fenley, Interim City Manager

**SUBJECT:** Resolution of the City Council of the City of Calexico Authorizing Interim City Manager to Execute Grant Application, Master Agreement and/or any Documentation Pertaining to the Department of Transportation for the New River Improvement Project – Calexico Area Project Plan.

=====

**Recommendation:**

Resolution of the City Council of the City of Calexico Authorizing Interim City Manager to Execute Grant Application, Master Agreement and/or any Documentation Pertaining to the Department of Transportation for the New River Improvement Project – Calexico Area Project Plan.

**Background:**

In December 2011, the "Strategic Plan: New River Improvement Project" ("Strategic Plan") was submitted by the NRIP Technical Advisory Committee (TAC) to the California-Mexico Border Relations Council (Council), pursuant to AB 1079 (Perez, 2009). The recommendations of the TAC were both regulatory and structural in nature. The Strategic Plan envisions a River Parkway along the New River in the Calexico area. The original structural recommendations for the New River in the Calexico area were a trash collection screen immediately downstream of the Border, a conveyance system, and a disinfection facility. The conveyance system would capture the average flow of the New River immediately downstream from the Border and pipe it to the disinfection facility. On February 1, 2016, the California-Mexico Border Relations Council accepted from the TAC revised recommendations for the Calexico area. Under the revised approach for Calexico, the trash screen and conveyance system remain; and the main changes were to (1) forego the disinfection facility, and (2) use the conveyance system to bypass the proposed Parkway and substantively bypass Calexico so that the water would be discharged at a point that significantly minimizes threat to public health (e.g., near Highway 98). This approach would also include re-routing (e.g., by pumping and piping) up to 4 mgd of treated wastewater from the City of Calexico Wastewater Treatment Plant back to

**AGENDA  
ITEM  
12**

the River channel at the Border.

**Discussion & Analysis:**

The proposed New River Improvement Project (NRIP) for the Calexico area will consist of two (2) phases. Phase 1 will consist of conducting the environmental CEQA/NEPA studies for the construction of and the design of the revised recommended structural components for the New River in the Calexico area:

1. Trash screen for the New River downstream from the Border with Mexico.
2. Conveyance system to pipe the New River wastewater from the Border with Mexico to a point immediately downstream from the crossing of the New River and the All-American Canal.
3. Booster pumping station and associated piping (hereafter "booster pump-back system") to pump treated wastewater from the City of Calexico Wastewater Treatment Plant back to the New River immediately downstream from the Border.

Phase 2 will consists of the installation and construction of the trash screen, booster pump-back system, and the conveyance system.

Staff recommends that the City Council of the City of Calexico adopt the attached resolution and authorize Interim City Manager to execute grant application, master agreement and/or any documentation pertaining to the Department of Transportation for the New River Improvement Project – Calexico Area Project Plan.

**Fiscal Impact:**

Estimated Project Cost:	
Phase 1	\$731,700.00
Phase 2	<u>\$22,100,000.00</u>
Total	\$22,831,700.00

**Coordinated With:**

Department of Transportation

**Attachment:**

1. Resolution of the City Council of the City of Calexico Authorizing Interim City Manager to Execute Grant Application, Master Agreement and/or any Documentation Pertaining to the Department of Transportation for the New River Improvement Project – Calexico Area Project Plan.

**RESOLUTION NO. 2016-\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE GRANT APPLICATION, MASTER AGREEMENT AND/OR ANY DOCUMENTATION PERTAINING TO DEPARTMENT OF TRANSPORTATION FOR THE NEW RIVER IMPROVEMENT PROJECT – CALEXICO AREA PROJECT PLAN

WHEREAS, the City of Calexico is eligible to receive Federal and/or State funding through the Department of Transportation for the New River Improvement Project – Calexico Area Project Plan; and

WHEREAS, Grant application, master agreement and/or any documentation need to be executed with the Department of Transportation before such funds could be claimed; and

WHEREAS, the City Council of the City of Calexico wishes to delegate authorization to the Interim City Manager be authorized to execute grant application, master agreement and any documentation pertaining to Department of Transportation for the New River Improvement Project – Calexico Area Project Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO DOES HEREBY RESOLVE, DECLARE, AND DETERMINE AND ORDER AS FOLLOWS:

1. The Interim City Manager is authorized to execute grant application, master agreement and/or any documentation pertaining to Department of Transportation for the New River Improvement Project – Calexico Area Project Plan.

PASSED, APPROVED AND ADOPTED this 19<sup>th</sup> day of April 2016.

\_\_\_\_\_  
Joong S. Kim, Mayor

Attest:

\_\_\_\_\_  
Gabriela Garcia, Deputy City Clerk

Approved as to Form:

\_\_\_\_\_  
Carlos Campos, Interim City Attorney

Resolution No. 2016-\_\_  
Page 2

State of California )  
County of Imperial ) ss.  
City of Calexico )

I, Gabriela Garcia, Deputy City Clerk of the City of Calexico do hereby certify the above Resolution No. 2016-\_\_ was approved at a regular City Council meeting held on the 19<sup>th</sup> day of April 2016, by the following vote to-wit:

AYES:

NOES:

ABSTAIN:

---

Gabriela Garcia, Deputy City Clerk

## NEW RIVER IMPROVEMENT PROJECT – CALEXICO AREA PROJECT PLAN

**PROJECT NAME:** New River Improvement Project Calexico Area – Phase 1

**PROJECT APPLICANTS:** City of Calexico and California Department of Transportation

**GOALS:** The overall goal of this project is to improve water quality in the New River and address the public health threat it poses to California. This project will also assist the City of Calexico—an economically disadvantaged community—develop and implement its river parkway project and deal with the public health threat that the New River poses to its residents.

**SUMMARY PROJECT DESCRIPTION:** The New River Improvement Project (NRIP) for the Calexico area has two (2) phases. Phase 1 consists of conducting the environmental CEQA/NEPA studies for the construction of and the design of the revised recommended structural components for the New River in the Calexico area: (1) a trash screen for the New River downstream from the Border with Mexico; (2) a conveyance system to pipe the New River wastewater from the Border with Mexico to a point immediately downstream from the crossing of the New River and the All-American Canal; and (3) a booster pumping station and associated piping (hereafter “booster pump-back system”) to pump treated wastewater from the City of Calexico Wastewater Treatment Plant back to the New River immediately downstream from the Border. Phase 2 consists of the installation and construction of the trash screen, booster pump-back system, and the conveyance system.

**PROJECT DIRECTORS:** Nick Fenley, Interim Manager for the City of Calexico; and Benjamin de Alba, Deputy Secretary for Rail and Ports, California State Transportation Agency.

**GRANT CONTACT:** Nick Fenley (760) 768-2110; Frank Gonzalez, Senior Transportation Engineer (559) 445-5407

**PROJECT LOCATION:** City of Calexico, Imperial County

**SCOPE OF WORK:** Caltrans will be designing the proposed water quality improvement infrastructure and will be preparing the CEQA/NEPA documents for this project. The proposed scope of work is as follows:

1. Project Management – Caltrans will be lead for all technical and administrative aspect of the project. It will monitor, supervise, and review all work performed; and coordinate budgeting and scheduling to ensure the project is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.
  - a. Caltrans will notify the Division of Financial Assistance (DFA) staff contact at least fifteen (15) working days in advance of upcoming public meetings, workshops, or trainings related to TA Project implementation.
  - b. Caltrans will conduct monthly status meetings and quarterly TA roundtable meetings with the Colorado River Basin Regional Water Quality Control Board (Region 7) and will provide quarterly written progress reports to Region 7 and DFA.
  - c. Caltrans will prepare a Draft Project Summary Report and submit it to DFA on January 15, 2018.
  - d. Caltrans will submit a Final Project Summary Report to Region 7 and DFA on March 15, 2018.
2. Technical Assistance
  - a. Infrastructure Design and Environmental Documentation
    - i. Pre-planning to identify key stakeholders, field conditions, and field hazards;
    - ii. Trash Screen Preliminary Engineering Plans and Specifications
    - iii. Conveyance System Engineering Plans and Specifications
    - iv. Booster pump-back System Engineering Plans and Specifications
    - v. Environmental documents
    - vi. Draft Contracts for installation and construction of infrastructure

**BACKGROUND:** In December 2011, the "Strategic Plan: New River Improvement Project" ("Strategic Plan") was submitted by the NRIP Technical Advisory Committee (TAC) to the California-Mexico Border Relations Council (Council), pursuant to AB 1079 (Perez, 2009). The recommendations of the TAC were both regulatory and structural in nature. The Strategic Plan envisions a River Parkway along the New River in the Calexico area<sup>1</sup>. The original structural recommendations for the New River in the Calexico area were a trash collection screen immediately downstream of the Border, a conveyance system, and a disinfection facility. The conveyance system would capture the average flow of the New River immediately downstream from the Border and pipe it to the disinfection facility. On February 1, 2016, the Council accepted from the TAC revised recommendations for the Calexico area. Under the revised approach for Calexico, the trash screen and conveyance system remain; and the main changes were to (1) forego the disinfection facility, and (2) use the conveyance system to bypass the proposed Parkway and substantively bypass Calexico so that the water would be discharged at a point that significantly minimizes threat to public health (e.g., near Highway 98). This approach would also include re-routing (e.g., by pumping and piping) up to 4 mgd of treated wastewater from the City of Calexico WWTP back to the River channel at the Border.

**PROJECT COSTS:** The total projected cost for Phase 1 of this project is \$731,700. The City of Calexico has been designated by CalEPA as an economically disadvantaged community. The City of Calexico and Caltrans are seeking \$500,000 for the City of Calexico under Proposition 1, Chapter 5, Section 79774 to carry out Phase 1 of this project. The City will enter into a Contract Agreement to pay Caltrans for its services for Phase 1. The total projected cost for Caltrans services for Phase 1 and Phase 2 is approximately \$1,200,000, which includes construction oversight. The Council will provide up to \$600,000 to cover the costs for Caltrans' services, and Region 7 and the Department of Toxic Substances Control El Centro CUPA Office will each provide \$50,000 in in-kind services to complete Phase the project. Table 1, below, shows the overall costs for Phases 1 and 2. Attachment 1 provides cost details.

<b>Table 1 – New River Improvement Project Calexico Area</b>			
<b>Phase</b>	<b>Project</b>	<b>Location</b>	<b>Projected Cost</b>
Phase 1: Planning and Design	Design and Environmental Documentation for Trash Scree, Conveyance System, and booster pump-back system	City of Calexico	\$731,700
Phase 2: Construction	Trash Screen	Calexico, immediately downstream of US-Mexico Border	\$4,000,000
	New River Conveyance System	Calexico, from the Border to approximately City of Calexico WWTP	\$17,000,000
	Pump-back system for Treated Wastewater from Calexico WWTP	City of Calexico WWTP booster pump, plus piping back to the Border	\$1,100,000
Total for Calexico			\$22,831,700

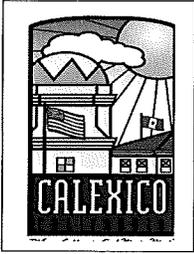
<sup>1</sup> Construction of the essential components of the River Parkway—a pedestrian and bicycle pathway—is under way and being funded by a \$4.2M federal grant and \$800,000 from Prop 84.

**PROJECT DELIVERABLES, MILESTONES AND SCHEDULE:** The proposed project will start immediately right after the California-Mexico Border Relations Council commits to [...allocating \$231,700 for Phase 1...] and will be completed with the requested grant by 2017. Table 2, below, shows the key milestones and deadlines to complete the project.

Task	Start	Finish
Pre-Planning	4/15/2017	4/30/2017
Encasement Preliminary Plans	5/2/16	7/29/16
Right of Way Clearance	5/2/16	10/31/17
Trash Rack Preliminary Plans	5/2/16	7/29/16
Pump-Back System Preliminary Plans	5/2/16	7/29/16
Final Plans, Specifications and Estimate	8/4/17	10/31/17
Draft Construction Contracts	11/1/17	12/1/2017
Environmental Document	4/8/16	10/31/17
River bed soil/sediment sampling	4/8/16	11/17/16
Draft Project Summary Report	12/1/2017	1/15/2018
Final Project Report	1/16/2018	3/15/2018

**AGENDA  
ITEM**

**13**



# AGENDA STAFF REPORT

**DATE:** April 19, 2016

**TO:** Mayor and City Council

**APPROVED BY:** Nick Fenley, Interim City Manager 

**PREPARED BY:** Nick Fenley, Interim City Manager

**SUBJECT:** Award Bid from A&R Construction in the amount of \$148,200.00 and Authorize Interim City Manager to sign Construction Agreement with A&R Construction for the Relocation and Abandonment of Waterline on Birch Street (HWY 98).

=====

**Recommendation:**

It is recommended that the City Council approve the following:

1. Award Bid from A&R Construction in the amount of \$148,200.00 for the Relocation and Abandonment of Waterline on Birch Street (HWY 98).
2. Authorize Interim City Manager to sign Construction Agreement with A&R Construction for the Relocation and Abandonment of Waterline on Birch Street (HWY 98).

**Background:**

The California Department of Transportation (Caltrans) in cooperation with the City of Calexico, proposes to improve traffic operations, enhance bicycle and pedestrian access, and improve drainage performance on HWY 98. HWY 98 will be widened from two to four lanes from Dogwood Road through just west of Ollie Avenue, and from four to six lanes from Ollie Avenue through HWY 111, tying back to the existing road at Rockwood Avenue. Sidewalks are proposed along both sides of HWY 98 for the entire length of the project to encourage pedestrian use as well as enhance access to schools and businesses. This project will also incorporate a new Class II Bike Lane in order to promote bicycle use as well as enhance bicyclist access.

AGENDA  
ITEM  
**13**

**Discussion & Analysis:**

In order for HWY 98 Widening Project to begin the construction phase of said project, the City of Calexico needs to relocate or abandon three (3) waterlines located on HWY 98. On March 13, 2016, the Public Works Department requested bids for the relocation and abandonment of the waterlines on Birch Street (HWY 98). On March 31, 2016, the Office of the City Clerk received four (4) bids:

1. A&R Construction	\$148,200.00
2. Pyramid Construction	\$163,880.00
3. Bali Construction	\$178,666.33
4. Granite Construction	\$188,080.00

After carefully reviewing all bid documentation from A&R Construction, City staff has found that they meet all required guidelines and are the lowest responsible bidder. For this reason, City staff is requesting City Council authorization to award the bid proposal and authorize the Interim City Manager to sign an agreement with A&R Construction for the relocation and abandonment of the waterlines on Birch Street (HWY 98).

**Fiscal Impact:**

Enterprise Funds (Water Operating) \$148,200.00.

**Coordinated With:**

Public Works Department.

**Attachment(s):**

1. Deputy City Clerk Bid Tabulation.
2. A&R Construction Bid.
3. Construction Agreement between City of Calexico and A&R Construction.

**CITY OF CALEXICO  
OFFICE OF THE CITY CLERK  
BID TABULATION**

**Bid:** Relocation and Abandonment of Waterline  
Birch Street (State Highway 98)  
**Dept.:** Public Works  
**Date:** March 30, 2016  
**Time:** 2:00p.m.  
**Location:** Council Chambers, City Hall, 608 Heber Avenue, Calexico, CA

VENDOR	TOTAL
Pyramid Construction & Aggregates, Inc.	\$ 163,880 <sup>00</sup>
Bali Construction.	\$ 178,666 <sup>33</sup>
A+R Construction	\$ 148,200 <sup>00</sup>
Granite Construction Co.	\$ 188,080 <sup>00</sup>

  
 \_\_\_\_\_  
 Gabriela T. Garcia, Deputy City Clerk

3/30/2016  
 \_\_\_\_\_  
 Date

**PROPOSAL BID FORM**

TO THE PUBLIC WORKS DIRECTOR/CITY ENGINEER OF THE CITY OF CALEXICO:

The undersigned hereby declares that he has carefully examined the location of the proposed work that he has examined the plans and specifications and read the accompanying instructions to bidders and hereby proposes to furnish all material except owner furnished materials, and do all work required to complete the said work in accordance with said plans and specifications and special provisions for the unit prices set forth in the following schedule. The bidder shall furnish prices for all items shown in the proposal.

Item No.	Approximate Quantity	Unit	Description	Unit Price	Total
1.	1	L.S.	Mobilization	9,000	9,000
2.	2	EA	Connect to Existing 6" DIA. Waterline	2,000	4,000
3.	2	EA.	Connect to Existing 12" DIA. Waterline	3,500	7,000
4.	1	L.S.	Trench and Patch Back	10,000	10,000
5.	4	EA.	6" DIA. 45° D.I. Elbow (INC. Thrust Block)	3,000	12,000
6.	16	L.F.	6" DIA. PVC C-900 Waterline	300.	4,800
7.	2	EA.	8" DIA. D.I. Blind Flange (INC. Thrust Block)	4,000	8,000
8.	372	L.F.	12" DIA. PVC C-900 Waterline	200.	74,400
9.	2	EA.	12" DIA. 45° D.I. Elbow (INC. Thrust Block)	2,000	4,000
10.	1	EA.	12" DIA. 90° D.I. Elbow (INC. Thrust Block)	3,000	3,000
11.	1	L.S.	Traffic Control & Const. Area Signs	12,000	12,000

Grand Total Bid: \$ 148,200.00

Grand Total Bid Price Written in words: one hundred forty eight THOUSAND Two hundred dollars

1.00 – The undersigned hereby acknowledges the receipt of the following addendum:

None  ; No. 1 \_\_\_\_\_ ; No. 2 \_\_\_\_\_ ; No. 3 \_\_\_\_\_ ; No. 4 \_\_\_\_\_ ; No. 5 \_\_\_\_\_

2.00 – The undersign hereby certifies that this proposal/bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation.

3.00 – The undersigned hereby accepts on the behalf of his firm all provisions and requirements of the contract documents, including but not limited to those related to time of completion and liquidated damages.

4.00 – The undersigned hereby certifies that they are authorized representative of the firm on whose behalf this proposal/bid is submitted and that they are acting at the direction and with the required approval of said firm, which is identified as follows:

Name of firm: A+R CONSTRUCTION  
Address of firm: 1631 River Drive Brawley Ca 92227  
Telephone number: (760) 3444653 Fax number: (760) 3444146  
Contractor's license number: 787760 Type: A  
Signed: [Signature] Date: 3-23-16

END OF PROPOSAL/BID FORM

**CONSTRUCTION AGREEMENT  
CITY OF CALEXICO, CALIFORNIA**

THIS AGREEMENT is made this 19<sup>th</sup> day of April, by and between the City of Calexico, a Municipal Corporation of the State of California ("City") and A&R Construction ("Contractor"). The City and the CONTRACTOR for consideration stated herein agree as follows:

1. Description of Project

CONTRACTOR shall provide for the construction of Relocation and Abandonment of Waterline in accordance with the Invitation for Bids.

2. Description of Work

2.1 CONTRACTOR shall furnish all of the labor, tools, equipment, and services required to perform all of the work in connection with the construction of Street Improvement Project in accordance with the invitation for Bids, incorporated by reference as though fully set herein. Said construction shall be in accordance with the 2015 California Department of Transportation Standard Plans, Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished, and the General Prevailing Wage rates dated 2016. Said invitation for bids, Standard Plans, Standard Specifications, Labor Surcharge and Equipment Rental Rates, and General Prevailing Wage Rates are as fully a part of the Agreement as if hereto attached or herein repeated.

2.2 The work to be performed under this Agreement shall conform to the plans entitled "Relocation and Abandonment of Waterline", incorporated herein as fully a part of this Agreement as if hereto attached or herein repeated.

3. Time for Completion

The work shall be commenced on the date stated in Notice to Proceed, and shall be completed within the allotted working days after the date stated in such Notice.

4. Compensation

4.1 City will pay the CONTRACTOR for the performance of this Agreement according to the terms and conditions contained in the Project's Invitation for Bids and Proposal or bid submittal by CONTRACTOR. CONTRACTOR will take full payment in accordance with the following item prices incorporated as part of the proposal or bid submitted by CONTRACTOR.

4.2 CONTRACTOR agrees to receive and accept said compensation as full payment for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage, arising out of the nature of the work aforesaid, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by CITY and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work in the manner and according to the plans and specification, and the requirements of the CITY Engineer. This provision in no way limits the CONTRACTOR's duties

under other provisions herein.

## 5. Industry Standards

The CONTRACTOR agrees that its performance, and that of its employees or subcontractors, under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent contractor using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field in the State of California. Where approval by the CITY, the CITY Manager, or other representatives of the CITY is required, it is understood to be general approval only and does not relieve the CONTRACTOR of responsibility for complying with all applicable laws, codes and quality construction and business practices.

## 6. Insurance

The CONTRACTOR shall not begin performing under this Agreement until it has: (a) obtained insurance certificates reflecting evidence of all insurance required herein; however, the CITY reserves the right to request, and the CONTRACTOR shall submit, copies of any policy upon reasonable request by the CITY; (b) obtained CITY approval of each company or companies as required herein; and (c) confirmed that all policies contain the specific provisions required herein. Further the CONTRACTOR shall not modify any policy or endorsement thereto which increases the CITY'S exposure to loss for the duration of this Agreement.

### 6.1 Types of Insurance.

At all times during the term of this Agreement, CONTRACTOR shall maintain insurance coverage as follows:

#### 6.1.1 Commercial General Liability

For all of the CONTRACTOR'S operations, including contractual, broad form property damage, completed operations, and independent CONTRACTOR'S liability, the CONTRACTOR shall keep in full force and effect, during any and all work on this Project, all applicable insurance to cover personal injury, bodily injury and property damage, providing coverage to a combined single limit of \$\_\_\_\_\_ per occurrence, subject to an annual aggregate of \$\_\_\_\_\_ for general liability, completed operations and personal injury other than bodily injury. Agreemental liability shall include coverage of tort liability of another party to pay for bodily injury or property damage to a third person or organization. Agreemental liability limitation endorsement is not acceptable.

#### 6.1.2 Commercial Automobile Liability

For all the CONTRACTOR'S automobiles including owned, hired and non-owned automobiles, the CONTRACTOR shall keep in full force and effect, automobile insurance for bodily injury and property damage providing coverage to a combined single limit of \$\_\_\_\_\_ per occurrence. Insurance certificate shall reflect coverage for any automobile [any auto]. The CITY shall be named as an additional insured, but only for liability arising out of the use of CONTRACTOR'S automobiles and only arising out of the performance of this Agreement.

### 6.1.3 Worker's Compensation

For all of the CONTRACTOR's employees who are subject to this Agreement and to the extent required by the State of California, the CONTRACTOR shall keep in full force and effect, a workers compensation policy. That policy shall provide a minimum of \$\_\_\_\_\_ of employees liability coverage and the CONTRACTOR shall provide and endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.

### 6.2 Rating Requirements

All bonds used to guarantee work and performance under this Agreement and all insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that have been at least an "A" or "A-" and "V" rating by AM BEST, that are licensed and approved by the State to do business in the State of California, and that have been approved by the CITY.

### 6.3 Deductibles

All deductibles on any policy shall be the responsibility of the CONTRACTOR.

### 6.4 Specific Provisions Required

Each policy required under Section 6 herein, shall expressly provide, and an endorsement shall be submitted to the City, that:

6.4.1 Except as to Workers Compensation, the City of Calexico and its respective elected officials, officers, employees, agents, and representatives shall be named as additional insureds. The CITY's Additional Insured status must be reflected on additional insured endorsement which shall be submitted to the CITY.

6.4.2 The policies are primary and any insurance that may be carried by the CITY is non-contributing, as reflected in an endorsement which shall be submitted to the CITY.

6.4.3 The policies cannot be canceled, non renewed or materially changed except after thirty calendar days prior written notice by the CONTRACTOR to the CITY by certified mail, as reflected in an endorsement which shall be submitted to the CITY except for non-payment of premium, in which case ten (10) days notice will be provided.

6.4.4 Before performing under this Agreement, the CONTRACTOR shall provide the CITY with all Certificates of Insurance accompanied with all endorsements.

6.4.5 The CONTRACTOR may obtain additional insurance not required by this Agreement.

## 7. Agreementor Compliance with Labor Code

CONTRACTOR certifies that he is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this Agreement.

#### 8. Control of Agreement

The improvement contemplated in the performance of this contract is a project over which the City of Calexico shall exercise general supervision. The CITY therefore shall have the right to assume full and direct control over this contract whenever the CITY, at its sole discretion, shall determine that its responsibility to the State of California so requires.

#### 9. Conflicting Terms

If an apparent conflict or inconsistency exists between the main body of this Agreement and the bid, proposal or other incorporated document, the main body of this Agreement shall control. If a conflict exists between applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirements shall control. Each party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

#### 10. Indemnification and Hold Harmless Agreement

10.1 With respect to any liability, including but not limited to claims asserted or costs, losses, attorney fees (for attorney of CITY's choosing), or payments for injury to any person or property caused or claimed to be caused by the acts or omissions of the CONTRACTOR, or the CONTRACTORS's employees, agents, and officers, arising out of any services performed involving this project, the CONTRACTOR agrees to defend, indemnify, protect, and hold harmless the CITY, its agents, officers, or employees from and against all liability. Also covered is liability arising from, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the CITY, its agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of the CONTRACTOR, its employees, agents or officers, or any third party. The CONTRACTOR's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the soles negligence or sole willful misconduct of the CITY, its agent, officers or employees. This section in no way alters, affects or modifies any of CONTRACTOR's other obligations and duties herein.

10.2 The CONTRACTOR agrees to pay any and all costs the CITY incurs enforcing the indemnity and defense provisions herein.

#### 11. Notices

In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be

effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice to the parties herein shall be addressed as follows:

CITY

CONTRACTOR:

City of Calexico  
Office of the City Manager  
608 Heber Avenue  
Calexico, CA 92231

A&R Construction  
1631 River Drive  
Brawley, CA 92227

#### 12. Non-Assignment

The CONTRACTOR shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without the CITY's prior written approval. Any assignment in violation of this paragraph shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of the CITY. In no event shall any putative assignment create a contractual relationship between the CITY and any putative assignee.

#### 13. Independent Agreementors

The CONTRACTOR and any SUBCONTRACTORS employed by the CONTRACTOR shall be independent contractors and not agents of the CITY.

#### 14. Compliance with Controlling Law

The CONTRACTOR shall comply with all laws, ordinances, regulations, and policies of the federal, state and local governments applicable to this Agreement, including California Labor Code section 1720 relating to the payment of prevailing wages, including inspection and land surveying work. In addition, the CONTRACTOR shall comply immediately with all directives issues by the CITY or its authorized representatives under authority of any laws, statures, ordinances, rules or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

Pursuant to the Labor Code of the State of California, or local laws applicable thereto, the CITY has ascertained that the CONTRACTOR shall be responsible for paying prevailing wages as established by the State of California, Director of Industrial Relations. Under Section 1776 of the State Labor Code, the CONTRACTOR, and all subcontractors, are required to keep accurate payroll records. This Section specifies the content thereof, inspection and duplication procedures, and certain notices required of the CONTRACTOR pertaining to their location.

Whenever the CONTRACTOR or any representative, agent or employee Of CONTRACTOR performing a public works project is found by the Department of Industrial Relations ("DIR") or the CITY to be in violation of the prevailing wage requirements imposed by law, the CONTRACTOR shall indemnify and hold CITY harmless from any and all liability arising from such violation, including

any and all liability imposed on the City. The CONTRACTOR's duty to indemnify the CITY pursuant to this section shall include any and all costs and expenses incurred by the CITY therefrom, including but not limited to any penalties imposed on the CITY by DIR or any other state agency and reasonable attorney's fees.

Nothing in this section shall be construed to limit, alter or amend the CONTRACTOR's duty to indemnify under any other provisions of this Agreement.

15. Jurisdiction and Venue

The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of the Imperial, State of California.

16. Integration

This Agreement and the exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both parties or an amendment to this Agreement agreed to both Parties. All prior negotiations and agreements are merged into this Agreement.

17. Counterparts

This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all parties had executed the same page.

18. No Waiver

No failure of either the CITY or the CONTRACTOR to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach or such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.

19. Severability

The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

IN WITNESS WHEREOF, the parties hereto through their agent duly authorized, have executed this Agreement as of the day and year first above written.

ATTEST:

\_\_\_\_\_  
GABRIELA GARCIA  
Deputy City Clerk of the City of Calexico

\_\_\_\_\_  
NICK FENLEY  
Interim City Manager of the City of Calexico

CONTRACTOR

By: \_\_\_\_\_  
Signature

\_\_\_\_\_ Date

\_\_\_\_\_  
Printed Name and Title

Licensed in accordance with an act  
Providing for the registration of contractors,  
License No. \_\_\_\_\_

APPROVED AS TO FORM AND EXECUTION

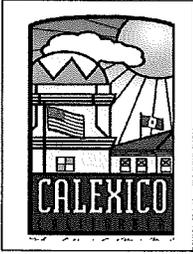
\_\_\_\_\_  
CARLOS CAMPOS  
Interim City Attorney

\_\_\_\_\_ Date

**END OF AGREEMENT**

**AGENDA  
ITEM**

**14**



# AGENDA STAFF REPORT

**DATE:** April 19, 2015

**TO:** Mayor and City Council

**APPROVED BY:** Nick Fenley, Interim City Manager 

**PREPARED BY:** Carlos Campos, Interim City Attorney

**SUBJECT:** Charter City Formation, Timeline and Materials.

=====

**Recommendation:**

Council to provide direction to continue with the process of becoming a Charter City and appointment of a Charter City Committee.

**Background:**

At meeting of April 5, 2016, Council requested information on the process and timeline for becoming a Charter City and selection of a Charter City Committee.

**Fiscal Impact:**

Unknown at this time.

**Coordinated With:**

City Attorney's Office.

**Attachment:**

1. Memorandum from City Attorney on Charter Formation, Timeline and Materials.

AGENDA  
ITEM  
**14**



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**Memorandum**

**To:** CITY COUNCIL  
**From:** INTERIM CITY ATTORNEY  
**Date:** April 20, 2016  
**Re:** CHARTER CITY FORMATION, TIMELINE, AND MATERIALS

**I. Introduction**

A city charter is a unique document. It is the constitution for the City. The Charter can only be adopted, amended or repealed by a majority vote. One advantage of a charter is that it allows a city to tailor its organization and elective offices, taking into account the unique local conditions and needs of the community.

Another advantage to a charter is that it transfers the power to adopt legislation affecting municipal affairs from the state legislature to the city adopting it. These affairs are unaffected by the general laws passed by the state legislature on the same subject matters. This, in effect, gives the local voters more control over their local government and the affairs of the city.

The purpose of this memorandum is to provide you with all of the information necessary as well as the steps that must be followed in order to create a Charter City.

**II. Background**

**A. General Law Cities vs. Charter Cities**

In California, there are two types of cities: general law cities and charter cities. General law cities get their corporate powers from the general laws passed by the State legislature. (*Irwin v. City of Manhattan Beach* (1966) 65 Cal.2d 13, 20.) Charter cities, on the other hand, get their corporate powers from the California Constitution's "home rule" provision<sup>1</sup>, which allows them to preside over all "**municipal affairs**," limited only by their own charters and State law on matters of "**statewide concern**." (Cal. Const. art XI, §§ 3 & 5; *Johnson v. Bradley* (1992) 4 Cal.4th 389, 394.)

**1. What are "municipal affairs"?**

Unfortunately, the California Constitution does not define "municipal affairs." (*Committee of Seven Thousand v. Superior Court* (1988) 45 C3d 491, 505.) What constitutes a "municipal affair" has been interpreted by the courts on a case-by-case basis.

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<sup>1</sup> "It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws." (Cal. Const. art. XI, § 5(a).)



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The following is a list of matters determined by the courts to be “municipal affairs”:

- Municipal elections and recalls
- Procedure for enacting local ordinances
- Land use and zoning decisions (subject to some exceptions)
- Contracting methods and procedures
- City police force regulation
- City employee appointment, compensation, and termination
- The imposition of taxes for municipal purposes
- Procedures for issuing building permits
- The rendering of financial assistance to public schools
- Municipal park acquisition and establishment
- Fire station designation
- Municipal street improvements
- Sewer and drain establishment and maintenance

**2. What are matters of “statewide concern”?**

Generally, a matter is of “statewide concern,” as opposed to a “municipal affair,” when its impact is “primarily regional,” even if its impacts are not truly statewide. (*Committee of Seven Thousand v. Superior Court* (1988) 45 Cal.3d 491, 505 [although construction of local roads has been considered local concern, construction of major highways is not].)

The following is a list of matters determined by the courts to be matters of “statewide concern”:

- Educational school systems
- Traffic and vehicle regulations
- Franchises for telephone or telegraph lines



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- Licensing of trade or profession members
- Tort claims against a governmental entity
- Taxation of savings and loan associations
- The Ralph M. Brown Act open meetings law
- The Meyers-Milias-Brown Act regarding employee organization
- The California Environmental Quality Act
- The exercise of the eminent domain power

**III. Five Steps – A General Overview on Becoming a Charter City**

**A. Step One – Deciding on the Process for Charter Formation**

To become a charter city, a city must adopt a charter. The California Constitution authorizes the voters to adopt a city charter. (Cal. Const. art. XI, §3(a).) There are two ways to draft a charter: (1) the city council drafts the charter; or (2) the city’s voters elect a charter commission to draft the charter. (Gov. Code, §§ 34451, 34458.) In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city’s voters. (Gov. Code, §§34457, 34462.)

The City Council, on its own motion, may draft a charter and submit it to the voters for adoption. (Gov. Code, § 34458.) The City Council may also form a charter advisory committee to assist it in drafting the charter.

**B. Step Two –Initiation of Charter Creation Process**

At the City’s regularly held City Council meeting on March 15, 2016, City Council reviewed the charter formation methods and decided to create the charter itself, rather than calling for a charter commission election.

**C. Step Three – Selection of the Charter Advisory Committee and Drafting**

At its regularly held meeting on April 19, 2016, the City Council wishes to establish an ad hoc committee, namely the Charter Advisory Committee, and review a timeline for charter drafting and preparation for placing a charter proposal on the November 8, 2016 general statewide election ballot.

While there are no particular provisions required to be in a city charter, cities often reserve the greatest amount of power possible when they adopt charters. Under the



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California Constitution, it is sufficient to provide in any city charter that the city governed under it may make and enforce all ordinances and regulations regarding municipal affairs, subject only to restrictions and limitations provided in the charter. (Cal. Const. art. XI, § 5, subd. (b).)

The most common areas explicitly regulated in city charters are:

- The date and conduct of city elections
- Regulations on the appointment of municipal officials
- The terms and payment of municipal officials
- The process for removal of municipal officials
- The number, pay, qualifications, and appointment of deputies, clerks, and other employees that each municipal officer will have
- Sub-government in all or part of the city
- The tenure of office for deputies, clerks, and other employees
- The process for removal of such deputies, clerks, and other employees
- The constitution, regulation, and government of the local police force

(Cal. Const. art. XI, § 5, subd. (b).)

Once the Committee determines which matters the charter will address, the process of drafting the charter, including all provisions respecting these matters, begins. Because the charter usually establishes (or, alternatively, adopts existing general law by reference) a set of rules governing each of the matters referenced above, the process of drafting a charter can be long and tedious. The Council must also agree to the rules governing municipal affairs as incorporated into the charter; a charter, once adopted, is difficult to amend.

Before a proposal to adopt a charter is submitted to the voters, the City Council must hold at least two public hearings on the matter. Notice of the public hearings shall be given by publication in a newspaper designated by the City Council and circulated throughout the city, and by posting notice in three public places within the city at least 21 calendar days prior to the date of each public hearing. The second public hearing shall be held at least 30 days after the first public hearing. At least one of the public hearings shall be held outside of normal business hours to facilitate public participation. The governing body shall not conduct a vote on whether to approve the submission to the voters of the proposal to adopt a charter until 21 days after the second public hearing. (Gov. Code, § 34458.)



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**D. Step Four – City Council Review and Submission to Voters**

After the proposed charter has been drafted, reviewed at public hearings, and approved for submission by Council, it may be sent to the voters for ratification at the next established statewide general election, provided there are at least 88 days remaining before the election. (Gov. Code, § 34458.)

**E. Step Five - Charter Ratification**

A majority of voters must vote in favor of the proposed charter for it to be ratified. The charter will not go into effect until it has been filed and accepted by the Secretary of State (Gov. Code, § 34459).

**IV. General Election Timeline**

<b>DEADLINE/TIMEFRAME</b>	<b>ACTION</b>	<b>AUTHORITY</b>
<b>April 19, 2016</b>	<b>Regular City Council Meeting</b> – City Council to appoint Charter Advisory Committee and review Timeline.	Gov. Code, § 34458.
No less than 21 days before First City Council Public Hearing  By <b>April 26, 2016</b> for May 17, 2016 meeting	City to provide <b>Notice</b> of Regular City Council Meeting w/ Charter on Agenda set for May 17, 2016 ( <i>First Hearing</i> )	Gov. Code, § 34458.
<b>May 10, 2016</b>	First Charter Advisory Committee Public “Town Hall” Meeting	
<b>May 17, 2016</b>	<b>Regular City Council Meeting – w/ City Charter as agenda item for Public Hearing</b> ( <i>First Hearing</i> )  <i>Note: At least one of the public hearings shall be held outside of normal business hours to facilitate public participation.</i>	Gov. Code, § 34458.



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DEADLINE/TIMEFRAME	ACTION	AUTHORITY
<b>May 24, 2016</b>	Second Charter Advisory Committee Public "Town Hall" Meeting	
<p>No less than 21 days before Second City Council Public Hearing</p> <p>By <b>May 31, 2016</b> for June 21, 2016 meeting</p>	City to provide <b>Notice</b> of Regular City Council Meeting w/ Charter on Agenda set for May 17, 2016 ( <i>Second Hearing</i> )	Gov. Code, § 34458.
<b>June 14, 2016</b>	Third Charter Advisory Committee Public "Town Hall" Meeting	
<b>June 21, 2016</b>	<p><b>Regular City Council Meeting – w/ City Charter as agenda item for Public Hearing (<i>Second Hearing</i>)</b></p> <p><i>Note: At least one of the public hearings shall be held outside of normal business hours to facilitate public participation.</i></p>	Gov. Code, § 34458.
<b>July 12, 2016</b>	Fourth Charter Advisory Committee Public "Town Hall" Meeting	
<p><b>July 19, 2016</b></p> <p>Must be at least 21 days after the Second Public Hearing</p> <p>No less than 88 days before Statewide General Election</p> <p>No later than <b>August 12, 2016</b></p>	<p><b>Regular City Council Meeting</b></p> <p>(1) Adopt Council resolution or ordinance calling the election, placing the proposed charter on the ballot and requesting Imperial County Board of Supervisors to consolidate the election on the measure with the Statewide general election to be held on November 8, 2016. The resolution must contain the question to be voted on exactly as it would appear on the ballot. Direct the City Clerk to transmit the resolution or ordinance to the City Attorney for preparation of an impartial analysis, and to the County</p>	Gov. Code § 34458. Elec. Code, §§ 9255; 9282; 9285; 9286.



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DEADLINE/TIMEFRAME	ACTION	AUTHORITY
	<p>Board of Supervisors. No public hearing is required.</p> <p>(2) Adopt a timeline for submitting primary arguments for and against the Charter, with the outside date for filing of primary arguments fixed not more than 14 days from the calling of the election.</p> <p>(3) Approve deadline for submission of rebuttal arguments no later than 10 days after the date for filing for primary arguments.</p>	
As directed by City Council	The City Attorney shall prepare an impartial analysis of the measure showing the effect of the proposed Charter on the existing law and the operation of the measure.	Elec. Code § 9280.
Within <b>14 days</b> of Adoption of Resolution	<p>Outside deadline for filing primary arguments for or against measure. If Council wishes to approve argument in favor written on its behalf, must present to Council before this date.</p> <p>City Clerk shall send a copy of an argument in favor of the proposition to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure <b>immediately</b> upon receiving the arguments.</p> <p>Clerk must select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters.</p>	Elec. Code § 9285; 9286; 9287.
Within 10 days of final date for primary arguments	Outside deadline for filing of rebuttal arguments.	
At least 10 days prior to printing of ballot materials	The elections official shall make a copy of the proposed Charter, primary arguments before or	Elec. Code § 9295.



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DEADLINE/TIMEFRAME	ACTION	AUTHORITY
(as required by County Elections Official)	against, and rebuttal arguments available for public examination in the elections official's office for a period of 10 calendar days immediately following the filing deadline for submission of those materials. During this public review period, any voter of the jurisdiction in which the election is being held or the elections official may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted.	
At least 61 days before election (no later than <b>September 8, 2016</b> )	Clerk must provide County with precinct list.	Elec. Code § 10002.
As required by County Elections Official	City Clerk must cause necessary ballots to be printed and furnish necessary election supplies and equipment to the elections officer.	Elec. Code § 10240.
At least <b>one week</b> before election (no later than <b>November 1, 2016</b> )	City Clerk must publish a synopsis of the measure to be voted on at least one time in a newspaper of general circulation in the City.	Elec. Code § 12111.
<b>November 8, 2016</b>	<b>Statewide General Election.</b> If a majority of voters vote in favor of the charter proposal, it shall be deemed to be ratified.	Gov. Code, § 34459.
After County Elections Official certifies the vote	(1) City Council shall pass a resolution reciting <ul style="list-style-type: none"> <li>• Whether the charter proposal was ratified by the voters</li> <li>• The whole number of votes cast in the city.</li> <li>• The number of votes given at each precinct for and against the charter proposal.</li> </ul> (2) Mayor and City Clerk to certify and authenticate, and City Clerk three copies of the complete text of the charter proposal. City Clerk to attest to the submission of the charter proposal to the voters and its ratification by	Elec. Code, §§ 9269, 10264; Gov. Code, § 34460.



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DEADLINE/TIMEFRAME	ACTION	AUTHORITY
	<p>them. Of the three copies,</p> <ul style="list-style-type: none"> <li>• One shall be recorded with the County Recorder’s Office;</li> <li>• One shall be filed in the City archives; and</li> <li>• One shall be filed with the Secretary of State.</li> </ul> <p>Each certified and authenticated copy of the charter proposal must be recorded/filed along with certified copies of all required publications and notices, certified copies of any arguments for or against the charter proposal that were mailed to voters, and a certified abstract of the vote at the election at which the charter proposal was approved by the voters.</p>	
<p>After charter proposal is accepted and filed by Secretary of State.</p>	<p>The charter proposal takes effect.</p>	<p>Gov. Code, §§ 34459, 34461</p>

Enclosures

Exhibit “1” – General Law vs. Charter Cities – The Issues, Similarities, and Differences

Exhibit “2” – List of Charter Cities in California

Exhibit “3” – Sample Charters



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**Exhibit “1”**

**General Law vs. Charter Cities – The Issues, Similarities, and Differences**

The following chart shows how certain municipal functions and activities are performed in general law versus in charter cities. The information here was gathered in part from the League of California Cities’ “Charter City Project.”

<b>Characteristic</b>	<b>General Law Cities</b>	<b>Charter Cities</b>
<b>Ability to Govern Municipal Affairs</b>	Bound by the state’s general law, regardless of whether the subject concerns a municipal affair.	Has supreme authority over “municipal affairs.” Cal. Const. art. XI , § 5(b).
<b>Form of Government</b>	State law describes the city’s form of government. For example, Government Code section 36501 authorizes general law cities be governed by a city council of five members, a city clerk, a city treasurer, a police chief, a fire chief and any subordinate officers or employees as required by law. City electors may adopt ordinance which provides for a different number of council members. Cal. Gov’t Code § 34871. The Government Code also authorizes the “city manager” form of government. Cal. Gov’t Code § 34851.	Charter can provide for any form of government including the “strong mayor,” and “city manager” forms. <i>See</i> Cal. Const. art. XI, § 5(b); Cal. Gov’t Code § 34450 <i>et seq.</i>
<b>Elections Generally</b>	Municipal elections conducted in accordance with the California Elections Code. Cal. Elec. Code §§ 10101 <i>et seq.</i> .	Not bound by the California Elections Code. May establish own election dates, rules, and procedures. <i>See</i> Cal. Const. art. XI, § 5(b); Cal. Elec. Code §§ 10101 <i>et seq.</i> .



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Characteristic	General Law Cities	Charter Cities
<b>Methods of Elections</b>	Generally holds at-large elections whereby voters vote for any candidate on the ballot. Cities may also choose to elect the city council “by” or “from” districts, so long as the election system has been established by ordinance and approved by the voters. Cal. Gov’t Code § 34871. Mayor may be elected by the city council or by vote of the people. Cal. Gov’t Code § 34902.	May establish procedures for selecting officers. May hold at-large or district elections. <i>See</i> Cal. Const. art. XI, § 5(b).
<b>City Council Member Qualifications</b>	<p>Minimum qualifications are:</p> <ol style="list-style-type: none"> <li>1. United States citizen</li> <li>2. At least 18 years old</li> <li>3. Registered voter at the time nomination papers are filed</li> <li>4. Resident of the city at the at least 15 days prior to the election.</li> <li>5. If elected by or from a district, be a resident of the geographical area comprising the district from which he or she is elected.</li> </ol> <p>Cal. Elec. Code § 321; Cal. Gov’t Code §§ 34882, 36502; 87 Cal. Op. Att’y Gen. 30 (2004).</p>	Can establish own criteria for city office provided it does not violate the U.S. Constitution. Cal. Const. art. XI, § 5(b), 82 Cal. Op. Att’y Gen. 6, 8 (1999).
<b>Public Funds for Candidate in Municipal Elections</b>	No public officer shall expend and no candidate shall accept public money for the purpose of seeking elected office. Cal. Gov’t Code §	Public financing of election campaigns is lawful. <i>Johnson v. Bradley</i> , 4 Cal. 4th 389 (1992).



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Characteristic	General Law Cities	Charter Cities
	85300.	
<b>Term Limits</b>	May provide for term limits. Cal. Gov't Code § 36502(b).	May provide for term limits. Cal. Const. art. XI, § 5(b); Cal Gov't Code Section 36502 (b).
<b>Vacancies and Termination of Office</b>	An office becomes vacant in several instances including death, resignation, removal for failure to perform official duties, electorate irregularities, absence from meetings without permission, and upon non-residency. Cal. Gov't Code §§ 1770, 36502, 36513.	May establish criteria for vacating and terminating city offices so long as it does not violate the state and federal constitutions. Cal. Const. art. XI, § 5(b).
<b>Council Member Compensation and Expense Reimbursement</b>	Salary-ceiling is set by city population and salary increases set by state law except for compensation established by city electors. <i>See</i> Cal. Gov't Code § 36516. If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. <i>See</i> Cal. Gov't Code §§ 53234 - 53235.	May establish council members' salaries. <i>See</i> Cal. Const. art. XI, § 5(b). If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. <i>See</i> Cal. Gov't Code §§ 53234 - 53235.
<b>Legislative Authority</b>	Ordinances may not be passed within five days of introduction unless they are urgency ordinances. Cal. Gov't Code § 36934.  Ordinances may only be passed at a regular meeting, and must be read in full at time of introduction	May establish procedures for enacting local ordinances. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).



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Characteristic	General Law Cities	Charter Cities
	and passage except when, after reading the title, further reading is waived. Cal. Gov't Code § 36934.	
<b>Resolutions</b>	May establish rules regarding the procedures for adopting, amending or repealing resolutions.	May establish procedures for adopting, amending or repealing resolutions. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
<b>Quorum and Voting Requirements</b>	<p>A majority of the city council constitutes a quorum for transaction of business. Cal. Gov't Code § 36810.</p> <p>All ordinances, resolutions, and orders for the payment of money require a recorded majority vote of the total membership of the city council. Cal. Gov't Code § 36936. Specific legislation requires supermajority votes for certain actions.</p>	<p>May establish own procedures and quorum requirements. However, certain legislation requiring supermajority votes is applicable to charter cities. For example, see California Code of Civil Procedure section 1245.240 requiring a vote of two-thirds of all the members of the governing body unless a greater vote is required by charter.</p>
<b>Rules Governing Procedure and Decorum</b>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i>.</p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i>.</p> <p>May provide provisions related to ethics, conflicts, campaign financing and incompatibility of office.</p>
<b>Personnel Matters</b>	May establish standards, requirements and procedures for hiring personnel consistent with	May establish standards, requirements, and procedures, including compensation, terms and



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Characteristic	General Law Cities	Charter Cities
	<p>Government Code requirements.</p> <p>May have “civil service” system, which includes comprehensive procedures for recruitment, hiring, testing and promotion. See Cal. Gov’t Code § 45000 et seq.</p> <p>Meyers-Milias-Brown Act applies. Cal. Gov’t Code § 3500.</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, § 10(b).</p>	<p>conditions of employment for personnel. See Cal. Const. art. XI, § 5(b).</p> <p>Procedures set forth in Meyers-Milias-Brown Act apply (Gov’t Code § 3500) but note, “[T]here is a clear distinction between the <i>substance</i> of a public employee labor issue and the <i>procedure</i> by which it is resolved. Thus there is no question that ‘salaries of local employees of a charter city constitute municipal affairs and are not subject to general laws.’” <i>Voters for Responsible Retirement v. Board of Supervisors</i> (1994) 8 Cal.4th 765, 781.</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, section 10 (b).</p>
<b>Contracting Services</b>	<p>Authority to enter into contracts to carry out necessary functions, including those expressly granted and those implied by necessity. See Cal. Gov’t Code § 37103; <i>Carruth v. City of Madera</i>, 233 Cal. App. 2d 688 (1965).</p>	<p>Full authority to contract consistent with charter.</p> <p>May transfer some of its functions to the county including tax collection, assessment collection and sale of property for non-payment of taxes and assessments. Cal. Gov’t Code §§ 51330, 51334, 51335.</p>
<b>Public Contracts</b>	<p>Competitive bidding required for public works contracts over \$5,000. Cal. Pub. Cont. Code § 20162. Such contracts must be</p>	<p>Not required to comply with bidding statutes provided the city charter or a city ordinance exempts the city from such statutes, and the subject</p>



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Characteristic	General Law Cities	Charter Cities
	<p>awarded to the lowest responsible bidder. Pub. Cont. Code § 20162. If city elects subject itself to uniform construction accounting procedures, less formal procedures may be available for contracts less than \$175,000. <i>See</i> Cal. Pub. Cont. Code §§ 22000, 22032.</p> <p>Contracts for professional services such as private architectural, landscape architectural, engineering, environmental, land surveying, or construction management firms need not be competitively bid, but must be awarded on basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of services. Cal. Gov't Code § 4526.</p>	<p>matter of the bid constitutes a municipal affair. Pub. Cont. Code § 1100.7; <i>see R &amp; A Vending Services, Inc. v. City of Los Angeles</i>, 172 Cal. App. 3d 1188 (1985); <i>Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.</i>, 71 Cal. App. 4th 38 (1998).</p>
<p><b>Payment of Prevailing Wages</b></p>	<p>In general, prevailing wages must be paid on public works projects over \$1,000. Cal. Lab. Code § 1771. Higher thresholds apply (\$15,000 or \$25,000) if the public entity has adopted a special labor compliance program. <i>See</i> Cal. Labor Code § 1771.5(a)-(c).</p>	<p>A charter city may exempt itself from the state's prevailing wage requirements on the city's locally funded public works projects because the wage levels of contract workers constructing locally funded public works are a "municipal affair." <i>State Bldg. &amp; Constr. Trades Council v. City of Vista</i> (2012) 54 C4th 547. However, <i>City of Vista</i> was legislatively overturned by Labor Code §1782, which prohibits charter cities from receiving or using state funding or financial assistance for construction projects if the charter city has a charter provision or ordinance</p>



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ATTORNEYS AT LAW

Characteristic	General Law Cities	Charter Cities
<b>Finance and Taxing Power</b>	<p>May impose the same kinds of taxes and assessment as charter cities. <i>See</i> Cal. Gov't Code § 37100.5.</p> <p>Imposition of taxes and assessments subject to Proposition 218. Cal. Const. art.XIIIC.</p> <p>Examples of common forms used in assessment district financing include:</p> <ul style="list-style-type: none"> <li>• Municipal Improvement Act of 1913. <i>See</i> Cal. Sts. &amp; High. Code §§ 10000 <i>et seq.</i>.</li> <li>• Improvement Bond Act of 1915. Cal. Sts. &amp; High. Code §§ 8500 <i>et seq.</i>.</li> <li>• Landscaping and Lighting Act of 1972. Cal. Sts. &amp; High. Code §§ 22500 <i>et seq.</i>.</li> <li>• Benefit Assessment Act of</li> </ul>	<p>authorizing noncompliance with state prevailing wage laws, or if it has awarded a public works contract within the prior 2 years that did not require compliance with prevailing wage requirements. Limited exceptions apply to funding or contracts awarded before January 1, 2015, and for certain contracts of \$25,000 or less. Legal challenges to Labor Code §1782 are pending.</p> <p>Have the power to tax.</p> <p>Have broader assessment powers than a general law city, as well as taxation power as determined on a case-by case basis.</p> <p>Imposition of taxes and assessments subject to Proposition 218, Cal. Const. art. XIIIC, § 2, and own charter limitations</p> <p>May proceed under a general assessment law, or enact local assessment laws and then elect to proceed under the local law. <i>See J.W. Jones Companies v. City of San Diego</i>, 157 Cal. App. 3d 745 (1984).</p> <p>May impose business license taxes for any purpose unless limited by state or federal constitutions, or city charter. <i>See</i> Cal. Const. art. XI, § 5.</p> <p>May impose real property transfer tax; does not violate either Cal. Const art. XIII A or California</p>



**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

Characteristic	General Law Cities	Charter Cities
	1982. Cal. Gov't Code §§ 54703 <i>et seq.</i>	Government Code section 53725. <i>See Cohn v. City of Oakland</i> , 223 Cal. App. 3d 261 (1990); <i>Fielder v. City of Los Angeles</i> , 14 Cal. App. 4th 137 (1993).
	May impose business license taxes for regulatory purposes, revenue purposes, or both. <i>See</i> Cal. Gov't Code § 37101.	
	May not impose real property transfer tax. <i>See</i> Cal. Const. art. XIII A, § 4; Cal. Gov't Code § 53725; <i>but see</i> authority to impose documentary transfer taxes under certain circumstances. Cal. Rev. & Tax. Code § 11911(a), (c).	
<b>Streets &amp; Sidewalks</b>	State has preempted entire field of traffic control. Cal. Veh. Code § 21.	State has preempted entire field of traffic control. Cal. Veh. Code § 21.
<b>Penalties &amp; Cost Recovery</b>	May impose fines, penalties and forfeitures, with a fine not exceeding \$1,000. Cal. Gov't Code § 36901.	May enact ordinances providing for various penalties so long as such penalties do not exceed any maximum limits set by the charter. <i>County of Los Angeles v. City of Los Angeles</i> , 219 Cal. App. 2d 838, 844 (1963).
<b>Public Utilities/Franchises</b>	May establish, purchase, and operate public works to furnish its inhabitants with electric power. <i>See</i> Cal. Const. art. XI, § 9(a); Cal. Gov't Code § 39732; Cal. Pub. Util. Code § 10002.	May establish, purchase, and operate public works to furnish its inhabitants with electric power. <i>See</i> Cal. Const. art. XI, § 9(a); <i>Cal. Apartment Ass'n v. City of Stockton</i> , 80 Cal. App. 4th 699 (2000).
	May grant franchises to persons or corporations seeking to furnish light, water, power, heat, transportation or communication	May establish conditions and regulations on the granting of franchises to use city streets to persons or corporations seeking to



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ATTORNEYS AT LAW

<b>Characteristic</b>	<b>General Law Cities</b>	<b>Charter Cities</b>
	services in the city to allow use of city streets for such purposes. The grant of franchises can be done through a bidding process, under the Broughton Act, Cal. Pub. Util. Code §§ 6001-6092, or without a bidding process under the Franchise Act of 1937, Cal. Pub. Util. Code §§ 6201-6302.	furnish light, water, power, heat, transportation or communication services in the city.  Franchise Act of 1937 is not applicable if charter provides. Cal. Pub. Util. Code § 6205.
<b>Zoning</b>	Zoning ordinances must be consistent with general plan. Cal. Gov't Code § 65860.	Zoning ordinances are not required to be consistent with general plan unless the city has adopted a consistency requirement by charter or ordinance. Cal. Gov't. Code § 65803.



**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

**Exhibit "2"**

**List of Charter Cities in California**

Adelanto	Kingsburg	Salinas
Alameda	Lancaster	San Bernardino
Albany	La Quinta	San Diego
Alhambra	Lemoore	San Francisco
Anaheim	Lindsay	San Jose
Arcadia	Loma Linda	San Leandro
Bakersfield	Long Beach	San Luis Obispo
Bell	Los Alamitos	San Marcos
Berkeley	Los Angeles	San Mateo
Big Bear Lake	Marina	San Rafael
Buena Park	Marysville	San Ramon
Burbank	Merced	Sand City
Carlsbad	Modesto	Santa Ana
Cerritos	Monterey	Santa Barbara
Chico	Mountain View	Santa Clara
Chula Vista	Napa	Santa Cruz
Compton	Needles	Santa Maria
Culver City	Newport Beach	Santa Monica
Cypress	Norco	Santa Rosa
Del Mar	Oakland	Santee
Desert Hot Springs	Oceanside	Seal Beach
Dinuba	Oroville	Shafter
Downey	Pacific Grove	Signal Hill
El Cajon	Palm Desert	Solvang
El Centro	Palm Springs	Stockton
Eureka	Palmdale	Sunnyvale
Exeter	Palo Alto	Temple City
Folsom	Pasadena	Torrance
Fortuna	Petaluma	Truckee
Fresno	Piedmont	Tulare
Gilroy	Placentia	Vallejo
Glendale	Pomona	Ventura
Grass Valley	Port Hueneme	Vernon
Hayward	Porterville	Victorville
Huntington Beach	Rancho Mirage	Visalia
Indian Wells	Redondo Beach	Vista
Industry	Redwood City	Watsonville
Inglewood	Richmond	Whittier
Irvine	Riverside	Woodlake
Irwindale	Roseville	
King City	Sacramento	



**BEST BEST & KRIEGER** LLP  
ATTORNEYS AT LAW

Exhibit "3"

Sample Charters from Other Cities

# INDIAN WELLS CHARTER

(as amended)

## PREAMBLE

We the people of the City of Indian Wells declare our intent to restore to our community the historic principles of self governance inherent in the doctrine of home-rule. Sincerely committed to the belief that local government has the closest affinity to the people governed, and firm in the conviction that the economic and fiscal independence of our local government will promote the health, safety and welfare of all the citizens of this City, we do hereby exercise the express right granted by the Constitution of the State of California to enact and adopt this Charter for the City of Indian Wells.

## Article I - Municipal Affairs: Generally

Section 100. Municipal Affairs. The City shall have full power and authority to adopt, make, exercise and enforce all legislation, laws, and regulations and to take all actions relating to municipal affairs, without limitation, subject only to such limitations and restrictions as may be provided in this charter and the Constitution of the State of California. Without limiting in any manner the foregoing power and authority, each of the powers, rights, and responsibilities described in this Charter is hereby declared to be a municipal affair, the performance of which is unique to the benefit and welfare of the citizens of the City of Indian Wells.

Section 101. Councilperson's Compensation. Except as provided below or as may be required by applicable Federal or State law, no City funds shall be expended, or anything of value provided to, or on behalf of, any member of the City Council for his or her personal use or benefit.

The City Treasurer is authorized to make the following payments:

For services rendered as a member of the City Council - \$1000 per month.

For services rendered as Mayor – an additional \$500 per month.

For services rendered as Mayor Pro Tem – an additional \$250 per month.

Beginning July 1, 2014 and each year thereafter, the City Treasurer shall adjust the amounts above to reflect any changes in the Consumer Price Index for this area as determined by the Bureau of Labor Standards of the United States Department of Labor.

Nothing herein shall be construed to prohibit the reimbursement of ordinary and necessary expenses incurred in the performance of ones duties as a Member of the City Council, or Mayor, or Mayor Pro Tem provided such expenditures were reasonably incurred and approved in advance by the City Council.<sup>1</sup>

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<sup>1</sup> Section 101 adopted by voters at November 6, 2012 election. Effective date December 6, 2012.

## **Article II. CONTRACTS, PUBLIC FINANCING AND REVENUES**

Section 200. Public Works. The City shall have the power to establish standards, procedures, rules or regulations to regulate all aspects of the bidding, award and performance of any public works contract, including, but not limited to, the compensation rates to be paid for the performance of such work.

Section 201. Public Financing. The City shall have the power to establish standards, procedures, rules or regulations related to any public financing.

Section 202. Utility Franchises. The City shall have the power to adopt any ordinance providing for the acquisition, development, or operation by the City of any public utility. The City shall have the power to adopt any ordinance providing for the granting of a franchise, license or permit to any public utility not owned by the City which proposes to use or is using City streets, highways or other rights-of-way.

Section 203. Enterprises. The City shall have the power to engage in any enterprise deemed necessary to produce revenues for the general fund or any other fund established by the City Council to promote a public purpose.

Section 204. Economic Development. The City shall have the power to utilize revenues from the general fund to encourage, support and promote economic development.

Section 205. Reductions Prohibited. Any revenues raised and collected by the City shall not be subject to subtraction, retention, attachment, withdrawal or any other form of involuntary reduction by any other level of government.

Section 206. Mandates Limited. No person, whether elected or appointed, acting on behalf of the City, shall be required to perform any function which is mandated by any other level of government, unless and until funds sufficient for the performance of such function are provided by said mandating authority.

## **Article III - General Laws**

Section 300. General Law Powers. In addition to the power and authority granted by the terms of this Charter and the Constitution of the State of California, the City shall have the power and authority to adopt, make, exercise and enforce all legislation, laws and regulations and to take all actions and to exercise any and all rights, powers, and privileges heretofore or hereafter established, granted or prescribed by any law of the State of California or by any other lawful authority. In the event of any conflict between the provisions of this Charter and the provisions of the general laws of the State of California, the provisions of this Charter shall control.

## **Article IV – Interpretation**

Section 400. Construction and Interpretation. The language contained in this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of its power to govern with respect to any matter which is a municipal affair.

Section 401. Severability. If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

**THE CHARTER of the  
CITY OF CHULA VISTA**

Full text:

<http://www.codepublishing.com/CA/ChulaVista/#!/ChulaVistaCH/ChulaVistaCH.html>

**ARTICLE I. INCORPORATION AND SUCCESSION.**

- § 100. Name and Boundaries.
- § 101. Succession, Rights and Liabilities.
- § 102. Ordinances.
- § 103. Continuance of Contracts.
- § 104. Effective Date of Charter.

**ARTICLE II. POWERS.**

- § 200. Powers of City.
- § 201. Powers Vested in Council.

**ARTICLE III. CITY COUNCIL.**

- § 300. Members, Eligibility and Terms.
- § 300.5 Districting Commission.
- § 301. Powers.
- § 302. Compensation for Councilmembers.
- § 303. Vacancies.
- § 304. Presiding Officer, Mayor.
- § 305. Prohibited Acts.
- § 305.5 Limitations on Powers of Eminent Domain.
- § 305.6 Minimum Public Use Period.
- § 306. Regular Meetings.
- § 307. Repealed.
- § 308. Place of Meetings.
- § 309. Quorum; Proceedings.
- § 310. Citizen Participation.
- § 311. Adoption of Ordinances and Resolutions.
- § 312. Ordinances.
- § 313. Publishing of Legal Notices.

**ARTICLE IV. CITY MANAGER.**

- § 400. City Manager.
- § 401. City Manager; Powers and Duties.
- § 402. Participation at Council Meetings.
- § 403. City Manager Pro Tempore.

**ARTICLE V. OFFICERS AND EMPLOYEES.**

- § 500. Election, Appointment and Removal of Officers and Department Heads.
- § 501. Administrative Departments.
- § 502. City Clerk; Powers and Duties.
- § 503. City Attorney: Election, Powers and Duties.
- § 503.1 Office of Legislative Counsel; Duties.
- § 504. Director of Finance; Powers and Duties.
- § 505. Duties of Officers and Employees.
- § 506. Administering Oaths.
- § 507. Department Heads; Appointment Powers.
- § 508. Illegal Contracts; Financial Interest.
- § 509. Acceptance of Other Office.
- § 510. Nepotism.
- § 511. Official Bonds.
- § 512. Oath of Office.

**ARTICLE VI. APPOINTIVE BOARDS AND COMMISSIONS.**

- § 600. In General.
- § 601. Appropriations and Compensation.
- § 602. Appointments; Terms and Vacancies.
- § 603. Meetings; Chairman.
- § 604. Oaths; Affirmations.
- § 605. Planning Commission.
- § 606. Planning Commission; Powers and Duties.
- § 607. Board of Library Trustees.
- § 608. Board of Library Trustees; Powers and Duties.
- § 609. Civil Service Commission.
- § 610. Civil Service Commission; Powers and Duties.
- § 611. Parks and Recreation Commission.
- § 612. Parks and Recreation Commission; Powers and Duties.

**ARTICLE VII. CIVIL SERVICE.**

- § 700. Merit Principle.
- § 701. Unclassified and Classified Service.
- § 702. Rules and Regulations.
- § 703. Appointments from Classified Service Positions.
- § 704. Temporary Appointments.
- § 705. Abolishment of Positions.
- § 706. Contract for Performance of Administrative Functions.
- § 707. Improper Political Activity.

#### **ARTICLE VIII. RETIREMENT.**

- § 800. State System.

#### **ARTICLE IX. ELECTIONS.**

- § 900. General Municipal Elections; Terms.
- § 901. Special Municipal Elections.
- § 902. Procedure for Holding Elections.
- § 903. Initiative, Referendum and Recall.
- § 904. Regulations of Campaign Contributions.

#### **ARTICLE X. FISCAL ADMINISTRATION.**

- § 1000. Fiscal Year.
- § 1001. Annual Budget. Preparation by the City Manager.
- § 1002. Budget. Submission to the City Council.
- § 1003. Budget. Public Hearing.
- § 1004. Budget. Further Consideration and Adoption.
- § 1005. Budget. Appropriations.
- § 1006. Tax Limits.
- § 1007. Tax System.
- § 1008. Bonded Debt Limit.
- § 1009. Contracts on Public Works.
- § 1010. Centralized Procurement System and Competitive Bidding for Non-Public  
Works.
- § 1011. Property Storage, Distribution, Inventory and Disposition.
- § 1013. Capital Outlays Fund.
- § 1014. Departmental Trust Fund.
- § 1015. Presentation of Demands.
- § 1017. Independent Audit.

**ARTICLE XII. FRANCHISES.**

**§ 1200. Granting of Franchises.**

**§ 1201. Resolution of Intention. Notice and Public Hearing.**

**§ 1202. Term of Franchise.**

**§ 1203. Grant to be in Lieu of all other Franchises.**

**§ 1204. Eminent Domain.**

**§ 1205. Duties of Grantees.**

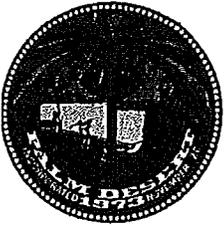
**§ 1206. Exercising Rights without Franchise.**

**ARTICLE XIII. MISCELLANEOUS.**

**§ 1300. Definitions.**

**§ 1301. Violations.**

**§ 1302. Validity.**



# City of Palm Desert

73-510 FRED WARING DRIVE, PALM DESERT, CALIFORNIA 92260-2578

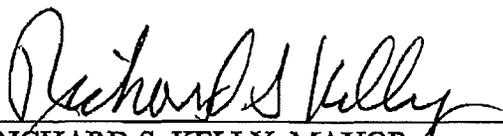
TELEPHONE (619) 346-0611

FAX (619) 340-0574

## CITY OF PALM DESERT

### CHARTER

The undersigned do hereby certify and authenticate that the attached documents, Resolution Nos. 97-55 and 97-100, consisting of a total of nine (9) pages, are full, true, and correct copies of the originals on file and of record in the Office of the City Clerk.

  
RICHARD S. KELLY, MAYOR

  
SHEILA R. GILLIGAN, CITY CLERK

ATTEST:  
  
SHEILA R. GILLIGAN, CITY CLERK

DATED: December 1, 1997

**RESOLUTION NO. 97-100**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 4, 1997, DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW**

**WHEREAS**, the General Municipal Election was held and conducted in the City of Palm Desert, California, on Tuesday, November 4, 1997, as required by law; and

**WHEREAS**, notice of the election was given in time, form, and manner as provided by law; voting precincts were properly established; election officers were appointed and that in all respects the election was held and conducted, and the votes were cast, received, and canvassed and the returns made and declared in time, form, and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

**WHEREAS**, pursuant to Resolution No. 90-62 adopted June 14, 1990, the Riverside County Election Department canvassed the returns of the election and the Registrar of Voters has certified the results to this City Council, the results are received, attached and made a part hereof as "Exhibit A".

**NOW, THEREFORE**, the City Council of the City of Palm Desert, California, **DOES HEREBY RESOLVE, DECLARE, DETERMINE, and ORDER** as follows:

**SECTION 1:** That the whole number of ballots cast in the City, except Absent Voter Ballots was 3,980.

That the whole number of Absent Voter Ballots cast in the City was 1,892, making a total of 5,872 ballots cast in the City.

**SECTION 2:** That the names of persons voted for at the election for Member of the City Council are as follows:

Walter H. Snyder  
Jim Ferguson  
Rick Post  
Jean M. Benson

That the measure voted upon at the election (Measure LL) is as follows:

Shall the Charter be adopted making Palm Desert a Charter City so that the laws of Palm Desert shall prevail over State law with respect to municipal affairs?	YES	
	NO	

**Palm Desert City Council**  
**Resolution No. 97-100**

SECTION 3: That the number of votes given at each precinct and the number of votes given in the City to each of the persons above named for Member of the City Council for which the persons were candidates and for and against Measure LL was as listed in Exhibit "A" attached.

SECTION 4: That the City Council does declare and determine that Jean M. Benson was elected for a full term of four years and Jim Ferguson was elected for a full term of four years.

SECTION 5: That the City Clerk shall enter on the records of the City Council of the City of Palm Desert a statement of the result of the election showing: (1) The whole number of ballots cast in the City; (2) the names of the persons voted for; (3) the measure voted upon; (4) for what office each person was voted; (5) the number of votes given at each precinct to each person; (6) the total number of votes given to each person and for and against Measure LL.

SECTION 6: That the City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Election signed by the City Clerk and authenticated; the City Clerk shall also administer to each person elected the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the Office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

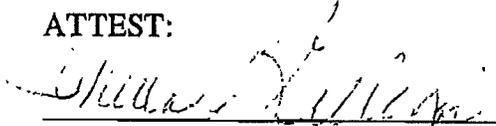
SECTION 7: That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**PASSED, APPROVED, and ADOPTED** by the City Council of the City of Palm Desert, California, at its Adjourned Meeting held on the 1st day of December, 1997, by the following vote, to wit:

**AYES:** Benson, Crites, Snyder, Spiegel & Kelly  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

  
\_\_\_\_\_  
RICHARD S. KELLY, MAYOR

ATTEST:

  
\_\_\_\_\_  
SHEILA R. GILLIGAN, CITY CLERK  
CITY OF PALM DESERT, CALIFORNIA

**Exhibit "A"**  
**Palm Desert City Council Resolution No. 97-100**

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**MISCHELLE TOWNSEND**  
Registrar of Voters



---

2724 Gateway Drive  
Riverside, CA 92507-0918  
(909) 486-7200  
FAX (909) 486-7272

---

**REGISTRAR OF VOTERS**  
**COUNTY OF RIVERSIDE**

---

**CERTIFICATE OF REGISTRAR OF VOTERS**  
**TO THE RESULTS OF THE CANVASS OF ELECTION RETURNS**

State of California    )  
                                  ) ss.  
County of Riverside    )

I, **MISCHELLE TOWNSEND**, Registrar of Voters of said County, do hereby certify that, in pursuance of the provisions of Sections 307 and 15301 of the California Elections Code and the resolution adopted by the City Council, I did canvass the returns of the vote cast at the General Municipal Election held on November 4, 1997, as part of the Consolidated Election, in the

**CITY OF PALM DESERT**

and I further certify that the statement of votes cast, to which this certificate is attached, shows the whole number of votes cast for each candidate for elective office, and for and against each measure submitted to a vote of the voters, at said election in said City and in each precinct therein, and that the totals as shown for each candidate and for and against each measure are full, true and correct.

Dated this 21st day of November, 1997

  
\_\_\_\_\_  
**MISCHELLE TOWNSEND**  
Registrar of Voters

**Exhibit "A"**  
**Palm Desert City Council Resolution No. 97-100**

11/19/97 5:31 PM  
 November 4, 1997

**Statement of Votes**  
**GENERAL CONSOLIDATED ELECTION**

54 of 79

PALM DESERT CITY COUNCIL / MEASURE LL														
	Registration	Ballots Cast	Turnout (%)		PALM DESERT CITY COUNCIL (2)	WALTER H SNYDER	JIM FERGUSON	RICK POST	JEAN M BENSON		LL PALM DESERT ADOPT CITY CHARTER	Yes	No	
25 - PALM DESERT	621	69	11.1		29	39	28	29			51	16		
27 - PALM DESERT	758	95	12.5		30	57	30	59			79	14		
28 - PALM DESERT	885	158	17.8		58	84	43	99			142	8		
29 - PALM DESERT	644	130	20.2		38	50	89	87			87	19		
30 - PALM DESERT	684	132	19.3		58	68	53	67			111	17		
31 - PALM DESERT	710	64	9.0		30	28	24	30			51	8		
32 - PALM DESERT	478	127	26.6		44	75	44	73			104	18		
33 - PALM DESERT	757	244	32.2		103	118	75	162			220	10		
34 - PALM DESERT	783	128	16.3		60	81	41	75			98	22		
35 - PALM DESERT	712	112	15.7		48	54	39	69			86	22		
36 - PALM DESERT	633	71	11.2		30	30	22	42			53	18		
37 - PALM DESERT	553	84	11.6		29	34	20	38			47	13		
38 - PALM DESERT	920	125	13.8		60	84	32	77			103	15		
39 - PALM DESERT	560	128	22.5		51	75	38	69			100	19		
40 - PALM DESERT	635	154	24.3		64	93	42	89			135	11		
41 - PALM DESERT	778	148	19.1		47	89	58	80			125	19		
42 - PALM DESERT	712	148	20.8		69	80	37	89			123	19		
43 - PALM DESERT	603	179	29.7		90	78	34	134			148	19		
44 - PALM DESERT	785	188	25.0		84	105	54	131			187	18		
45 - PALM DESERT	401	75	18.7		18	33	15	37			44	2		
46 - PALM DESERT	926	185	21.1		91	94	47	138			169	12		
47 - PALM DESERT	780	134	17.2		41	73	41	94			119	10		
48 - PALM DESERT	984	203	20.8		83	125	72	104			183	27		
49 - PALM DESERT	577	97	16.8		28	70	28	58			88	8		
50 - PALM DESERT	493	89	18.1		28	56	28	51			77	9		
51 - PALM DESERT	731	92	12.6		38	48	34	55			81	7		
52 - PALM DESERT	720	103	14.3		38	54	48	44			80	10		
53 - PALM DESERT	353	58	16.4		24	34	18	31			53	2		
54 - PALM DESERT	872	119	17.7		38	75	59	45			106	9		
55 - PALM DESERT	823	155	18.8		45	79	87	68			131	15		
56 - PALM DESERT	423	135	31.9		43	88	33	81			105	15		
57 - PALM DESERT	346	34	9.8		8	28	13	15			29	5		
1286 - PALM DESERT	24	8	33.3		5	3	2	8			7	0		
1287 - PALM DESERT	42	15	35.7		5	10	6	8			14	0		
1288 - PALM DESERT	0	0	n/a		0	0	0	0			0	0		
8000082 - ABS 82	21462	1891	8.8		920	844	843	1107			1601	214		
8000083 - ABS 83	42	1	2.4		0	1	0	1			1	0		
Absentee Totals	21504	1892	8.8		920	845	843	1108			1602	214		
Grand Totals	21504	5872	27.3		2447	3005	1949	3421			4808	648		

**RESOLUTION NO. 97-55**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, November 4, 1997, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES AND FOR THE SUBMISSION TO THE VOTERS A QUESTION RELATING TO A CHARTER FOR THE CITY OF PALM DESERT.**

**WHEREAS**, under the provisions of the laws relating to general law cities in the State of California, a General Municipal Election shall be held on Tuesday November 4, 1997, for the election of Municipal Officers; and

**WHEREAS**, the City Council also desires to submit to the voters at the election a question relating to a charter for the City of Palm Desert;

**NOW, THEREFORE**, the City Council of the City of Palm Desert, California, **DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Palm Desert, California, on Tuesday, November 4, 1997, a General Municipal Election for the purpose of electing two Members of the City Council for the full term of four years;

**SECTION 2.** That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

Shall the Charter be adopted making Palm Desert a Charter City so that the laws of Palm Desert shall prevail over State law with respect to municipal affairs?	YES	
	NO	

**SECTION 3.** That the proposed charter submitted to the voters is attached as Exhibit A.

**SECTION 4.** That the ballots to be used at the election shall be in form and content as required by law.

**SECTION 5.** That the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

**Resolution No. 97-55**  
**City of Palm Desert, California**

SECTION 6. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until 8:00 p.m. o'clock p.m. of the same day when the polls shall be closed, except as provided in §14401 of the Elections Code of the State of California.

SECTION 8. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 9. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

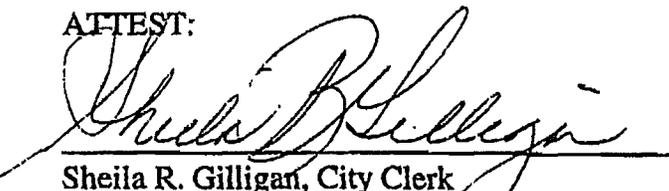
SECTION 10. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

**PASSED, APPROVED and ADOPTED** at the regular meeting of the Palm Desert City Council held on the 26th day of June, 1997, by the following vote, to wit:

- AYES:** BENSON, SNYDER, SPIEGEL, and KELLY
- NOES:** NONE
- ABSENT:** CRITES
- ABSTAIN:** NONE

  
Richard S. Kelly, Mayor

ATTEST:

  
Sheila R. Gilligan, City Clerk  
City of Palm Desert, California

## ATTACHMENT "A"

# CHARTER OF CITY OF PALM DESERT

### PREAMBLE

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

### CHARTER

#### ARTICLE 1. MUNICIPAL AFFAIRS.

**Section 100. Municipal Affairs; Generally.** Each of the responsibilities of governance set forth and described in this Charter, and as established by the Constitutional, statutory and judicially defined law of the State of California, is hereby declared to be a municipal affair or concern, the performance of which is unique to the benefit of the City of Palm Desert.

**Section 101. Powers of City.** The City shall have full power and authority to adopt, make, exercise and enforce all legislation, laws and regulations with respect to municipal affairs, subject only to such limitations and restrictions as may be provided in this Charter and in the Constitution of the State of California.

#### ARTICLE 2. FORM OF GOVERNMENT.

**Section 200. Form of Government.** The municipal government established by this Charter shall be known as the "Council-Manager" form of government. The City Council establish the policy of the City; the City Manager shall carry out that policy.

#### ARTICLE 3. REVENUE, SAVINGS AND GENERATION.

**Section 300. Public Works Contracts.** The City shall have the power to establish standards, procedures, rules or regulations to regulate all aspects of the bidding, award and performance of any public works contract, including, but not limited to, the compensation rates to be paid for the performance of such work.

**Section 301. Public Financing.** The City shall have the power to establish standards, procedures, rules or regulations related to any public financing.

**Section 302. Utility Franchises.** The City shall have the power to adopt any ordinance providing for the acquisition, development or operation by the City of any public utility and/or any ordinance providing for the granting of a franchise, license or permit to any public utility not owned by the City which proposes to use or is using City streets, highways or other rights-of-way.

**Section 303. Enterprises.** The City shall have the power to engage in any enterprise deemed necessary to produce revenues for the general fund or any other fund established by the City Council to promote a public purpose.

**Section 304. Economic and Community Development.** The City shall have the power to utilize revenues from the general fund to encourage, support and promote economic and community development in the City.

#### **ARTICLE 4. REVENUE RETENTION.**

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

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

#### **ARTICLE 5. GENERAL LAWS.**

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

**ARTICLE 6. INTERPRETATION.**

**Section 600. Construction and Interpretation.** The language contained in this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of its powers to govern with respect to any matter which is a municipal affair.

**Section 601. Severability.** If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

**ARTICLE 7. AMENDMENT.**

**Section 700. Amendment to Charter, revised or repealed.** This Charter, and any of its provisions, may be amended by a majority vote of its electors voting on the question. Amendment or repeal may be proposed by initiative or by the governing body.

Charter Chapter No. \_\_\_\_  
Statutes of 2009

# CHARTER OF THE CITY OF EL CENTRO

(filed with the Secretary of State \_\_\_\_\_, 2009)

## PREAMBLE

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

## CHARTER

### Article I Municipal Affairs

#### Section 100. Municipal Affairs

Each of the responsibilities of governance set forth and described in this Charter, and as established by the Constitutional, statutory and judicially defined law of the State of California, is hereby declared to be a municipal affair or concern, the performance of which is unique to the benefit of the citizens of the City of El Centro.

#### Section 101. Powers

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

## **Section 102. Incorporation and Succession**

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

## **Article 2 Form of Government**

### **Section 200. Form of Government**

The municipal government established by this Charter shall be known as the "Council-Manager" form of government. The City Council will establish the policy of the City and the City Manager will carry out that policy.

## **Article 3 Fiscal Matters**

### **Section 300. Public Works Contracts**

The City and its agencies, including, but not limited to El Centro Regional Medical Center, are exempt from the provisions of all California statutes regulating public contracting and purchasing except as provided by ordinance or by agreement approved by the City Council. The City shall establish all standards, procedures, rules or regulations to regulate all aspects of public contracting and purchasing.

### **Section 301. Prevailing Wages.**

The City and its agencies shall require the payment of prevailing wages on City and its agencies' public works projects in the same manner as is required of general law cities in the State of California; provided, however, that the City Council may, by resolution or ordinance adopted by a four-fifths (4/5) vote, increase or decrease the minimum thresholds which trigger the requirement to pay prevailing wages for the individual projects, categories of projects or all City and its agencies' public works projects.

### **Section 302. Economics and Community Development**

The City shall encourage, support, and promote economic development and community development in the City.

## **Article 4 Revenue Retention**

### **Section 400. Reductions Prohibited**

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

### **Section 401. Mandates Limited**

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

## **Article 5 Revenue Retention**

### **Section 500. General Law Powers**

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

## **Article 6 Interpretation**

### **Section 600. Construction and Interpretation**

The language contained in this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of its power to govern with respect to any matter which is a municipal affair.

**Section 601. Severability**

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

**AUTHENTICATION  
AND  
CERTIFICATION**

Authenticated and certified to be a true copy by Mayor Benjamin James Solomon, III and City Clerk L. Diane Caldwell.

Date of Municipal Election: November 3, 2009.

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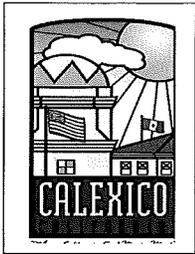
Benjamin James Solomon, III, Mayor

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L. Diane Caldwell, City Clerk

**AGENDA  
ITEM**

**15**



# AGENDA STAFF REPORT

**DATE:** April 19, 2016

**TO:** Mayor and City Council

**APPROVED BY:** Nick Fenley, Interim City Manager 

**PREPARED BY:** Nick Fenley, Interim City Manager

**SUBJECT:** Informational Item: Cesar Chavez Blvd. Improvement Project Update.

=====

## Recommendation:

Informational Item: Cesar Chavez Blvd. Improvement Project Update.

## Background:

The City of Calexico has received several grants for engineering, right-of-way and construction of Cesar Chavez Blvd. Improvement Project between HWY 98 and Second Street. The scope of work will include widening and improving Cesar Chavez Blvd. to five (5) lanes, turn lanes, traffic signal, lighting and sidewalks. Cesar Chavez Blvd. will serve as the primary access to the new Calexico West Port-of-Entry.

## Discussion & Analysis:

Listed below please find the Cesar Chavez Blvd. Improvement Project milestones and proposed timeline:

Project Milestone	Proposed
Begin Environmental Phase	09/02/13
End Environmental Phase	12/31/13
Begin Design Phase	03/01/13
End Design Phase	12/31/16
Begin Right of Way Phase	03/01/13
End Right of Way Phase	12/31/16
Begin Construction Phase	03/01/17
End Construction Phase	01/31/19

AGENDA  
ITEM  
**15**

**Fiscal Impact:**

Estimated Project Cost	
City of Calexico	\$1,926,000
Federal Grant	\$2,850,000
State Grant	<u>\$4,500,000</u>
Total	\$9,276,000

**Coordinated With:**

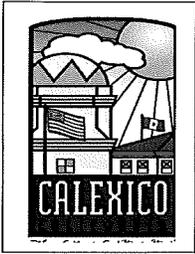
Department of Transportation, California Transportation Commission, Imperial County Transportation Commission, Imperial Irrigation District, KOA and Bender Rosenthal, Inc.

**Attachment:**

None.

**AGENDA  
ITEM**

**16**



# AGENDA STAFF REPORT

**DATE:** April 19, 2016

**TO:** Mayor and City Council

**APPROVED BY:** Nick Fenley, Interim City Manager 

**PREPARED BY:** Nick Fenley, Interim City Manager

**SUBJECT:** Informational Item: Calexico West Land Port-of-Entry Project Update.

=====

**Recommendation:**

Informational Item: Calexico West Land Port-of-Entry Project Update.

**Background:**

The Calexico West Land Port-of-Entry Project will be constructed in two phases. Phase 1 will consist of five (5) southbound privately owned vehicle (POV) lanes and a southbound bridge over the New River, ten (10) northbound POV inspections lanes with primary and secondary inspection canopies, booths and inspection equipment, a new headhouse and site work to accommodate those facilities on the sloping site. Phase 2 will include additional site work, demolition of the existing port building, a new pedestrian processing facility, administrative offices, five (5) southbound POV inspection lanes with canopies and booths, and six (6) additional northbound POV inspection lanes.

**Discussion & Analysis:**

Listed below please find the Calexico West Port-of-Entry Project milestones and proposed timeline:

Project Milestone	Proposed
Phase 1 – Completion	March 2018
Phase 2	To be determined (Pending Funding)

Please note that Phase 2 is part of the President’s fiscal year 2017 budget request and is pending approval.

**AGENDA  
ITEM**  
**16**

**Fiscal Impact:**

Phase 1 - \$98 Million

Phase 2 - \$248 Million (Estimate)

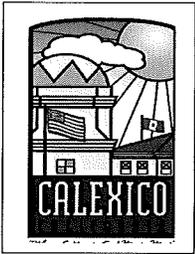
**Coordinated With:**

General Services Administration (GSA).

**Attachment:**

None.

**AGENDA  
ITEM  
17**



# AGENDA STAFF REPORT

**DATE:** April 19, 2016

**TO:** Mayor and City Council

**APPROVED BY:** Nick Fenley, Interim City Manager 

**PREPARED BY:** Nick Fenley, Interim City Manager

**SUBJECT:** Informational Item: Adrian Cordova Park Update.

=====

**Recommendation:**

Informational Item: Adrian Cordova Park Update.

**Background:**

Adrian Cordova Park is located on Clinton Avenue between Zapata Drive and Meadows Drive. Approximately 5 acres of Adrian Cordova Park has been developed into soccer field, playground area and parking lot. The remaining 10 acres of Adrian Cordova Park is undeveloped.

**Discussion & Analysis:**

City staff is currently in the process of searching for a parks/recreational consultant to assist us with the design phase of the vacant land at Adrian Cordova Park. In addition, City staff is in contact with the owner of the dirt that is currently located in the vacant land in order to schedule the removal of the dirt by the owner. The City has budgeted \$1,480,724.00 from Measure H Sales Tax Bond for the design and construction of said park.

**Fiscal Impact:**

Measure H Sales Tax Bond \$1,480,724.00

**Coordinated With:**

Public Works Department.

**Attachment:**

None.

AGENDA  
ITEM  
17