



Charter Review Committee

City of Arts & Innovation

TO: CHARTER REVIEW COMMITTEE MEMBERS DATE: January 13, 2019

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

SUBJECT: RESTRICTIONS ON POWER OF CITY COUNCIL TO ENTER INTO CERTAIN CONTRACTS OR TO ISSUE DEBT WITHOUT VOTER APPROVAL; CITIZEN PRIVATE RIGHT OF ACTION

ISSUE:

Receive and file research prepared by staff as to restrictions on City Council's power to enter into certain agreements, to issue debt without voter approval, and citizen private right of action in other cities' charters; determine if the Committee wishes to proceed with a charter amendment on any of these issues and then direct staff to present for Committee review any such proposed Charter amendments.

RECOMMENDATION:

That the Charter Review Committee:

1. Receive and file research prepared by staff as to restrictions on City Council's power to enter into certain agreements or to issue debt without voter approval and citizen private right of action in other cities;
2. Determine whether to propose a ballot amendment for restrictions on City Council's power to enter into certain agreements;
3. Determine whether to propose a ballot amendment for restrictions on City Council's power to issue debt without voter approval;
4. Determine whether to propose a ballot amendment for a citizen private right of action; and
5. Direct staff to present for Committee review any such ballot amendment as approved.

BACKGROUND:

The Committee has received comments from the public regarding the following:

1. Whether the City Council should be allowed to approve water sales contracts for the sale of water outside of City limits;

2. Whether the City Council should be allowed to enter into agreements longer than 10 years in term; and
3. Whether the City Council should be allowed to issue debt without voter approval.

Staff has prepared the following research to assist the Committee in determining if the Committee wishes to propose Charter revisions to voters.

Water Sales Contracts

The City Charter currently has no restrictions on sale of water outside of City limits. The City has entered into water sales agreements with Western Municipal Water District and City of Norco. Attached are the following City Council Reports:

1. May 16, 2017 City Council report for the 2017 Cooperative Agreement for Long-Term Wheeling and Surplus Water Sales with Western Municipal Water District.
2. February 12, 2019 City Council report for the Agreement for Sale of Emergency Potable Water to the City of Norco.

The City also provides water service to certain fringe areas of the City, including the Home Gardens area in the County of Riverside, the area served by Riverside Highlands Water company and the City of Colton, generally where the customer's water agency is unable to provide water service or where water might be needed in an emergency situation.

Length of Agreements

City Charter Section 418, "Contracts—Restriction on duration", provides the following (pertinent language underlined):

The City Council shall not have the power to make or authorize any contract or lease or extension thereof for a longer period than shall be provided by the laws of the State of California with respect to general law cities unless said contract, lease or extension be approved by a majority of the qualified electors of the City voting on such question at any election. A contract, lease or extension for a longer period shall be valid without such approval if it provides for the right of acquisition by the City at the end of such period of the real or personal property leased or contracted for. This section shall not apply to airports or to any franchise granted pursuant to the provisions of this Charter or to any contract for the furnishing, or acquisition of the products, commodity or services of any public utility.

State law provides that the City may lease property for a period not to exceed 55 years (Government Code section 37380(a).) The term of the lease can be up to 99 years if the lease contains certain conditions including periodic review and public hearing and the lease is awarded after a competitive process to the bidder who offers the greatest economic return. (Government Code section 37380(a).)

There are no specific restrictions on the term length of other agreements in the City Charter.

Issuance of Debt Without Voter Approval

City Charter Section 1108, "General obligation bonded debt limit; vote required for issuing general

obligation bonds; issuance of revenue bonds, notes and other evidence of indebtedness”, provides the following restrictions on issuance of debt (pertinent language underlined):

(a) The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen percent of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

(b) No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of two-thirds of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the State Constitution and of this Charter.

(c) The City Council by procedural ordinance or pursuant to State law, after a public hearing, notice of which has been given by publication at least fifteen days prior to such hearing, may issue revenue bonds, notes or other evidences of indebtedness without an election for any City purpose or purposes, and, any other provisions of this Charter notwithstanding, may make such covenants and exercise such powers as are deemed necessary in connection with the issuance and sale of such revenue bonds, notes or other evidences of indebtedness.

A request was also made to research what is being done in other cities on indebtedness over ten years. Staff researched the charters of Pomona, Long Beach, Oakland, Bakersfield, Anaheim, Santa Ana, Stockton, Irvine, Chula Vista, San Bernardino, or Norco (which are the “market basket” of charters the committee has previously been provided information about). None of these cities’ charters provide a restriction on indebtedness over ten years.

Citizen’s Private Right of Action

Staff researched the charters of Long Beach, Oakland, Bakersfield, Anaheim, Santa Ana, Stockton, Irvine, Chula Vista, San Bernardino, or Norco (which are the “market basket” of charters the committee has previously been provided information about). None of these cities’ charters provide a private cause of action to enforce a charter violation.

FISCAL IMPACT:

None.

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Approved as to form: Gary G. Geuss, City Attorney

Attachment: May 16, 2017 City Council Report No. 3
February 12, 2019 City Council Report No. 32a