

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: May 7, 2024

CAO File No. 0320-00181-0000

Council File No. 23-1027

Council District: All

To: The City Council

From: Matthew W. Szabo, City Administrative Officer



Reference: Charter Reform

Subject: **PROPOSED CHARTER AMENDMENTS TO MODERNIZE THE CITY'S
ORGANIZATIONAL INFRASTRUCTURE AND SUPPORT STRATEGIC
CITYWIDE POLICIES**

RECOMMENDATION

That the City Council consider,

1. Proposals 1, 2, 3, 4, 7, 8, 9, 10, 11 and 16 for the next Charter Amendment Ballot; and,
2. Proposals 5, 6, 12, 13, 14 and 15 for further assessment by the Charter Reform Commission, Council and Mayor.

SUMMARY

In December 2023, the Los Angeles City Council (Council) approved a motion (Krekorian – Harris-Dawson – McOsker; C.F. 23-1027) directing the City Administrative Officer (CAO) to identify sections of the City of Los Angeles Charter (Charter) that should be amended to benefit the City's modernization, improve the City's organizational infrastructure, and better support Citywide strategic policies. This report outlines this Office's recommendations for Charter amendments and is organized as follows:

- I. Charter Amendments related to the Office of the City Administrative Officer;
- II. Charter Amendments to Article III: Finance, Budget and Contracts;
- III. Charter Amendments to Article X: Employment Provisions;
- IV. Charter Amendments to Article XI, Part 3: Fire and Police Pension Plans.

The proposed Charter amendments are identified by underlines, strikethroughs, or descriptions, and are outlined by Charter Article and Section, the proposed amendment, the rationale for the change, and where appropriate, concerns.

I. PROPOSED CHARTER AMENDMENTS RELATED TO THE CAO

Proposal 1

Charter Article: II. Officers of the City

Charter Section: 201, 290-293, and throughout the Charter

Proposed Amendment: Change “Office of Administration and Research Services” to the “Office of the City Administrative Officer” in the noted sections and throughout the Charter.

Rationale: The CAO is not commonly known as the “Office of Administration and Research Services.” The Office of the City Administrative Officer or CAO is used as its official name for all Mayoral and Council actions and directives as well as the City website and official documents.

Proposal 2

Charter Article: II. Officers of the City

Charter Section: 291. Powers and Duties.

Proposed Amendment:

The ~~Director~~ **CAO, as the Chief Financial Officer of the City,** shall have the power and duty to:

- (a) keep the Mayor and the Council advised of the condition, finances and future needs of the City, and make recommendations as are appropriate;
- (b) assist in the preparation of the annual budget in accordance with policies prescribed by the Mayor;
- (c) develop work programs and standards required in the proper planning of the budget;
- (d) prepare reports on revenue and costs and, throughout the year, conduct studies and investigations that will assist in the preparation of the budget;
- (e) assist the Council in the review of the proposed budget;
- (f) assist the Mayor and Council in the consideration of any appropriations subsequent to the adoption of the budget, as set forth elsewhere in the Charter;
- (g) plan and direct a system of budgetary administration to assure the proper and effective expenditure of funds;
- (h) subject to the approval of the Mayor, prescribe rules and standards governing the matters under the jurisdiction of the Office of Administrative and Research

Services with which all officers and departments of the City must comply;

- (i) furnish the Mayor or Council aid, information or recommendation as requested in writing by the Mayor, the Council, or Council Committee; and
- (j) perform other duties assigned to the office in the Charter.

Except as provided in Section 292, the powers and duties of the ~~Director of the Office of Administrative and Research Services~~ **CAO** set forth in this section shall not apply to the Proprietary Departments.

Rationale: Using established terminology that is understood by most, this change provides additional clarification on the role of the CAO and indicates that the powers and duties listed in this section stem from the CAO's position as the Chief Financial Officer of the City.

Proposal 3

Charter Article: II. Officers of the City

Charter Section: 292. Administrative Management Research

Proposed Amendment:

The Director of the Office of Administrative and Research Services shall conduct research in administrative management, **including performance audits**, for the improvement of the organization, policies and practices, of all appointed offices, departments and other agencies of City government, including, without limitation, the Proprietary Departments, for the purpose of, evaluating programs, and developing performance measures concerning the duties of the various positions, the methods and the standards of efficiency. The Director of the Office of Administrative and Research Services shall recommend to the Mayor, Council and the respective departments and agencies those changes that will promote economy and efficiency in the conduct of City government.

Rationale:

- The office of the CAO has the responsibility to conduct performance audits. In the pre-2000 Charter, this Office had a Management Audit Group. Most recently, the CAO established the Equity, Performance Management and Innovation Group, which will manage performance audits.
- The performance audit function fits seamlessly with the responsibility to ensure economy and efficiency in the conduct of City government.

Proposal 4

Charter Article: V. Departments

Charter Section: 511. Responsibilities of Boards of Departments Controlling Their Own Funds

Proposed Amendment:

(a) provide suitable quarters, equipment and supplies for the department, create the necessary positions in the department, authorize the necessary deputies, assistants and employees and fix their duties, **excluding the determination of pay grades**, and may require bonds of any or all the department's employees for the faithful performance of their duties;

Rationale:

- It is important to clarify that departments in control of their own funds cannot set their own pay grade determinations without the CAO Employee Relations Division's review.
- This clarification should be made in Charter Sections 511(a), 291, or both.

II. CHARTER ARTICLE III: FINANCE, BUDGET AND CONTRACTS

Proposal 5

Charter Section: 312. Mayor's Proposed Budget

Proposed Amendment: Allow the Mayor to submit a two (2) year budget to Council biennially, on or before April 20th, or prior to the start of the Fiscal Year.

Given the significance of this proposal and the need to assess its feasibility thoroughly, this proposal includes both a rationale and key concerns.

Rationale:

- This change would reduce the time spent on developing an annual budget and allow time for departmental implementation, assessments, performance audits, financial reviews, and analyses.
- A two-year budget cycle will allow time for analyzing outcomes of year one spending in the second year. Year two budget changes will be limited to incremental adjustments, thus reducing department pressure to increase spending.
- An extended budget development process will allow more time for improved analyses.
- A two-year budget would reduce the challenges of the new election cycle with the new Mayor taking office in December and the budget due on April 20th.
- The Financial Status Reports would continue to address budgetary gaps and adjustments.

Concerns: While the idea of switching to a biennial budget process may appear attractive due to perceived efficiencies and reduced administrative burdens, the potential drawbacks and risks associated with such a change cannot be overlooked.

- Biennial budgets will limit the City's ability to adapt to changing economic conditions or unforeseen events over a two-year period.
- Long-term forecasting is inherently more uncertain than short-term projections.
- Biennial budgets may exacerbate fiscal risks by locking in spending decisions for a longer period without adequate assessment.
- The Mayor would only propose a budget twice during a four-year term and four times over two terms in office.
- New elected officials would come in at year two of a two-year budget, limiting their input in the budget until a year after taking office.
- Annual budgets provide more frequent opportunities for legislative oversight and public engagement.
- Maintaining an annual budget cycle ensures greater flexibility, responsiveness, oversight, and accountability in City spending, ultimately serving the interests of fiscal prudence and effective governance.

Proposal 6

Charter Section: New

Proposed Amendment: Codify key financial policies in the Charter.

Rationale: The City adopted revised financial policies in 2020 (C.F. 19-0600-S171). These policies should be reviewed and considered for inclusion in the Charter. Policies that should be codified may include, but are not limited to,

- Requirement for preparation of fiscal impact and financial policy compliance statements. The Charter already requires preparation of a Debt Impact Statement (Section 325).
- Submission of budgetary impacts on performance as part of budget documents, which could be added to Section 312.
- The 10 percent General Fund Reserves target (requires codification of the definition of the General Fund Reserves and the Unappropriated Balance - Reserve for Mid-Year Adjustments).

Proposal 7

Charter Section: 342. Transfer of Appropriated Funds and 343. Intra-Departmental Transfer

Proposed Amendment: Amend section 342 (a) through (c) to provide for the interdepartmental transfer limit to be adjusted annually through an administrative action, consistent with the language of section 343 pertaining to the intra-departmental transfer limit adjustments.

Rationale:

- Currently a change to the interdepartmental transfer limit requires Council adoption of a new ordinance, while the intra-departmental transfer limit has provisions that allow it to be administratively adjusted annually based on the Consumer Price Index.
- Because of the added burden, the interdepartmental transfer, currently set at \$50,000, has not been adjusted since 2000, while the intra-departmental transfer limit—initially set at \$35,000 in 2000—has since surpassed the interdepartmental limit and is currently at \$63,888.
- Alternatively, Charter Sections 342 and 343 might also be updated to include a provision similar to that in Administrative Code Section 5.36 relative to intra-departmental transfers which provides for an alternate transfer limit equal to one percent of the budget for the account receiving the transfer, provided that no such transfer shall exceed One Hundred Thousand Dollars (\$100,000).

Proposal 8

Charter Section: 371. Competitive Bidding; Competitive Sealed Proposals.

Proposed Amendment: Revise the language of part (a) as reflected below to (1) add “best value” as a method for determining competitive bidding procurements in addition to lowest, most responsive and responsible bidder; (2) allow bid preferences for local, small, and veteran businesses.

(a) Competitive Bidding. Except as provided in subsection (e) below, the City shall not be, and is not, bound by any contract unless the officer, board or employee authorized to contract has complied with the procedure for competitive bidding or submission of proposals established by this section and ordinance.

Contracts ~~shall~~ **may** be let to the lowest responsive and responsible bidder furnishing satisfactory security for performance. This determination may be made on the basis of the lowest ultimate cost of the items in place and use. Where the items are to constitute a part of a larger project or undertaking, consideration may be given to the effect on the aggregate ultimate cost of the project or undertaking.

Contracts may be let by determination of best value procurement performance qualifications, and other criteria to the City of responsive and responsible bidders

furnishing satisfactory security for performance. Best value definitions, standards, and policies for implementation shall be provided by ordinance.

Notwithstanding the provision of this subsection requiring award to the lowest most responsive and responsible bidder, **or best value** procurement, a bid preference can be allowed in the letting of contracts for California, Los Angeles County, City of Los Angeles, **small, and veteran firms**, and the bid specifications can provide for a domestic content and recycled content requirement. **Bid preferences and or procurement programs are subject to applicable state and federal laws.** The extent and nature of these **local, small, and veteran** bid preferences, domestic content and recycled content requirements and any standards, definitions, **criteria inclusion**, and policies for their implementation shall be provided by ordinance(s).

Rationale:

- The Best Value Procurement (BVP) method allows procurement professionals to consider multiple factors beyond cost and responsiveness. By doing so, they are able to make contracting decisions that focus on a holistic project delivery that emphasizes quality and performance.
- By limiting the procurement bid process to only the lowest responsive and responsible bidder, shortcomings may arise in quality, reliability and service that do not meet the City standards. BVP welcomes long-term value of a project or service, over the upfront cost.
- BVP encourages vendors to propose solutions that include their expertise and innovation. Vendors are encouraged to highlight efficiencies, cost-effectiveness, or advanced technology that fits the procurement need.
- Pursuant to California Proposition 209 (Prop 209), government entities shall not discriminate or give preferential treatment to anyone under the basis of race, sex, ethnicity, or national origin in public contracting. Like other government entities, the City uses bid preferences to strengthen their bids' competitiveness and improve the socioeconomic landscape throughout the City. However, these preferences should not be prioritized as the primary criteria towards maintaining a fair competitive bidding evaluation and awarding process. Furthermore, the evaluation and awarding process should prioritize which vendor(s) can perform the project duties outlined in the bid at the best cost and benefit to the City.
- Any bid preferences incentivizing items outlined in Prop 209 is prohibited. Legal bid preferences include local businesses within the City of Los Angeles – as outlined in the Local Business Preference Program (LBPP) ordinance – and Small Business Enterprise (SBE) and Disabled Veteran Business Enterprise (DVBE) certifications.
- SBE and DVBE certifications are considered legal bid preferences as they do not provide preferential treatment towards the criteria outlined in Prop 209, the State of California ("State") has specially earmarked funding for them to participate in government contracting, and businesses with these certifications can access further contracting

opportunities from other state and federal government entities.

- As of 2022, the State has a goal of spending 25 percent of all contract dollars with SBEs and 3 percent with DVBES. In addition, businesses with these certifications have access to increased contract opportunities not only within the City and are eligible to reap benefits from the State's Prompt Payment Act. According to the Act, SBEs that are awarded State contracts often receive outreach letters from prime contractors required to perform outreach on federal and state-funded projects.
- The manner in which bid preferences and their inclusion into the bidding evaluation criteria must be further outlined in an ordinance to ensure uniformity.

Proposal 9

Charter Section: 371. Competitive Bidding; Competitive Sealed Proposals.

Proposed Amendment: Revise the language of part (d) as reflected below to remove the requirement that procurement opportunities be published in a newspaper in favor of the City's procurement solicitation platform.

(d) Notice. The Council, board, officer or employee authorized to contract shall cause notice inviting bids or proposals to be published ~~at least once in a daily newspaper circulated in the City, in the City's procurement solicitation platform~~ or to be given by other method prescribed by ordinance, inviting bids or proposals. All bids and proposals shall comply with additional requirements provided by ordinance, including, but not limited to, the furnishing of a bid bond, performance bond and affidavit of non-collusion. Further procedures for competitive bidding shall be prescribed by ordinance.

Rationale:

- Publishing bids and proposals in the newspaper is no longer effective.
- Departments currently post bids and proposals using the online Regional Alliance Marketplace for Procurement (RAMP) portal.

Proposal 10

Charter Section: New

Proposed Amendment: Add language to clarify that pursuant to applicable state and federal laws, a board member, officer, agent, or employee of the City is prohibited from entering, participating, or making contracts, in their official capacity, in which they have a financial interest.

Rationale:

- This provision is already applicable to the City pursuant to California Government Code Section 1090. However, it is not well-known, and it is not included in the City's procurement training.

- Its inclusion in the Charter does not affect the applicability of CA Gov. Code Section 1090 to the City. However, it would reiterate the City's commitment towards this effort.

III. CHARTER ARTICLE X: EMPLOYMENT PROVISIONS

Proposal 11

Charter Section: 1001. Exemptions (Subsection (d) Positions Approved by Council)

Proposed Amendment:

(3) any position requiring the services of one individual for not more than half time **(1,040 hours) in a service year** ~~and paying a salary not to exceed three-fourths of the monthly rate established by the salary fixing authority of the department, division or office for entering-level clerical positions;~~

Rationale:

- An employing department must calculate how many hours an individual hired under Charter Section 1001(d)(3) is limited to working based on the salary of an entry-level clerical position, currently Administrative Clerk (formerly Clerk Typist) compared to the salary of the individual's classification. An Administrative Clerk hired under this provision may work a maximum of 120 hours in a month (or 60 hours per pay period), i.e., three-fourth (75 percent) of 160 hours per month (or 80 hours per pay period). An individual employed in a higher paying position is restricted to working less hours; an individual in a position with a salary lower than Administrative Clerk may work more than 120 hours in a month up to the value of three-fourth of the Administrative Clerk's salary, but not to exceed the half-time cap.
- There are several problems with this process: (1) the calculation is burdensome and must be recalculated every time the salary of either the Administrative Clerk or the individual's classification changes. (2) Restricting the hours an individual is allowed to work each month under this provision does not necessarily coincide with the service or seasonal needs of a department. For example, a department may need an employee to work more hours (or only) in the summer, or during school breaks, while still complying with the cap of 1,040 hours. (3) For any position with a salary higher than that of Administrative Clerk, it results in the employee not even being able to work half-time (1,040 hours) over the course of a service year.
- The proposed amendment also adds a reference to 1,040 hours in a service year, in order to define what is meant by "no more than half-time" (1,040 hours is half of full-time employment which is 2,080 hours in a service year). There is often confusion by departments if half-time under this provision means 1,000 or 1,040 hours, hence the need for the proposed clarification.

Proposal 12

Charter Section: 1005. Examinations

Proposed Amendment:

Positions in the classified civil service shall be filled through ~~competitive examination~~. ~~Applicants shall be subject to a~~ review of **Applicants'** experience, **knowledge, skills,** and character ~~and~~. **Applicants** may be disqualified if it is determined specified requirements are not met. Examinations shall be practical, and shall relate to those matters that will fairly test the relative capacity of the persons examined to discharge the duties of the position to which they seek to be appointed and, when appropriate, shall include, or exclusively consist of, tests of physical qualifications, and manual skill. No limitation or restriction whatsoever shall be imposed, excepting to the extent permitted by applicable state or federal law in the departments of fire and police, fixing a maximum age in excess of which persons shall be deprived from taking examinations for or being employed in the classified civil service. The provisions of Section 104(i) regarding discrimination on the basis of age shall not prohibit fixing a maximum age in the departments of fire and police if otherwise authorized by this section.

Rationale:

- The purpose of competitive examinations is to filter out unqualified candidates and establish a fair and practical system for assessing candidates' qualifications against one another. However, this section contains key words which have been interpreted in specific ways that have significant implications on how the City's examining process is implemented. For instance:
 - "Competitive examination" has been interpreted to mean all candidates must be tested and then ranked on a list by their score on the exam.
 - "Practical" has been interpreted to mean testing skills that the employee will use in real life, such as a writing test.
 - "Fairly test [...] capacity [...] to discharge the duties of the position" has been interpreted to mean that the duties of the position must be analyzed, and tests must match those duties.
- In contrast, the County of Los Angeles does not have these provisions. Instead of creating specific exams for every class, they can review and identify relevant job experiences and provide broader, more overarching tests, making it easier to test candidates and making job experience more significant than multiple choice test scores.

Proposal 13

Charter Section: 1009. Promotion

Proposed Amendment:

In rating eligible candidates, the board shall make an allowance of credits for past **job relevant service experience**. The announcement of the examination shall state that credits will be given for past job **relevant service experience**. ~~Upon the written request of the appointing authority, the board may certify the names of those applicants having the highest ratings on the open competitive eligible list whose scores before adjustment for preferential credits are higher than the score of the highest available applicant on the promotional eligible register after credits for past service have been added. Names of candidates shall be removed from the register of eligibles for promotion after they have remained on the register for two years without re-examination.~~

There shall be one list of eligible candidates, combining both open and promotional candidates, listing candidates in order of scores, including their service experience scores.

Rationale:

- The implications of using service credits for promotional examinations is that this practice awards candidates for their length of service rather than the merit in the quality and efficiency of their applicable work experience.
- Although hiring from within the City potentially ensures the continuity of knowledge, the current language in this section is so strict that almost no mid-career hiring is permissible, leading to limited hiring pool that may not suffice to fill positions, and the practice may cause the City to lose out on highly qualified external candidates.

Proposal 14

Charter Section: 1010. Certification (a) Three Highest Whole Scores

Proposed Amendment: Allow the Personnel Department to certify eligible candidates with the five with the highest whole scores instead of three.

(a) ~~Three~~ Five Highest Whole Scores. The appointing authority of a department shall notify the board when one or more classified positions are to be filled. The general manager of the Personnel Department shall certify to the appointing authority the names and addresses of those eligible having the ~~three~~ **five** highest whole scores on the register for the class to which the positions belong. **If multiple departments require certification of the same class or there is an operational necessity, the general manager of the Personnel Department may certify to the appointing authority names and address of all those eligible persons registered for the class to which the positions belong.** The appointing authority shall fill the positions from the names certified by the general

manager within 60 days from the date of certification. Certified test scores shall be made public. on the register for the class to which the positions belong.

Rationale:

- Hiring departments have argued that the rule of three whole scores is very restrictive.
- By modifying the rule to include five whole scores instead, it will allow departments to reach more potential candidates, helping departments fill more vacancies.
- This rule would be especially helpful for public safety examinations, such as the entry-level firefighter exam or police service representative. As it is now, firefighter candidates that do not score 95 in their interview are likely not reachable since with military credit the three whole scores would be 105, 100, and 95. Qualified candidates might exist in the 90 or 85 range, but due to the restrictions of this rule, these people are not reachable. These candidates may have otherwise successfully passed backgrounds and completed a drill tower.
- Provides a new option to certify the whole list should the General Management of the Personnel Department determine that it is warranted.
- Provides an option for departments to hire staff who are already in lieu of the positions, assumed to be already trained and performing the duties of the position.
- The provision could also be modified with the goal of allowing the certification and interview of additional candidates than permitted under the current process to reach *internal department* candidates. Alternatively, the use of the list may be bypassed by departments to immediately hire internal candidates with a passing score that are already performing the work. Departments may have a valid and legitimate interest in filling positions with lower scoring internal candidates, especially in instances where employees are already performing the work.
- Regardless of the score, the Personnel Department has affirmed that those with a passing score are capable of performing the related work.

Proposal 15

Charter Section: 1022. Use of Independent Contractors

Proposed Amendment:

Nothing in this Article shall be deemed or construed as preventing the Council, ~~or a board of commissioners in the case of those departments having control of their own revenues and funds~~, from entering into contracts for the performance of work when it is determined by the Council ~~or the board of commissioners~~ that the work can be performed more economically or feasibly by independent contractors than by City employees. The authority of the Council set forth in this section may be delegated to departments and officers of the City under rules and procedures as the Council may

prescribe. Nothing in this section shall limit the application of Sections 370 through 373 of the Charter relating to contracts and competitive bidding for contracts.

Rationale:

- This change would provide consistency in the application of the 1022 process throughout all City departments.
- Some departments that have control of their own funds abide by the 1022 process, but not all. This change would ensure compliance across departments.

IV. CHARTER ARTICLE XI, PART 3: FIRE AND POLICE PENSION PLANS

Proposal 16

Charter Section: 1700. Membership Tier 6

Proposed Amendment: Modify subsection (b) of the Tier 6 membership to allow all public safety members (police and fire) who are currently enrolled in the Los Angeles City Employees Retirement System (LACERS) into the Los Angeles Fire and Police Pension System (LAFPP) Tier 6. A ballot measure calling for the voluntary transfer of LACERS members into LAFPP Tier 6 would provide that all elected members become LAFPP Tier 6 members retroactively to the date of an individual employee's employment, thereby providing all commensurate benefits, including but not limited to access to the Deferred Retirement Option Plan (DROP) and LAFPP Retiree Health Subsidy.

Rationale: This change would create retirement parity between all existing police and fire sworn within the City of Los Angeles.

FISCAL IMPACT STATEMENT

There is no impact to the General Fund as a result of the recommendations in this report.

FINANCIAL POLICIES STATEMENT

The recommendations in this report comply with the City's Financial Policies.

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