Draft 1

# CHARTER
# OF THE
# CITY OF COSTA MESA

**WE THE PEOPLE** of the city of Costa Mesa 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 better serve and promote the health, safety and welfare of all of 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 Costa Mesa.

## Article I
## Municipal Affairs

### Section 100. Name of City; Perpetual Succession

The city of Costa Mesa shall continue to be a municipal corporation known as the city of Costa Mesa. The boundaries of the city of Costa Mesa shall continue as now established until changed in the manner authorized by law.

### Section 101. Rights and Liabilities of Cities; Prior Contracts, Liabilities, Etc., Continued in Effect

The city of Costa Mesa 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effect and not in conflict with or inconsistent herewith, are hereby continued in force until the same have been duly repealed, amended, changed or superseded by proper authority.

### Section 102. 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 of concern, the performance of which is unique to the benefit of the citizens of the city of Costa Mesa.

### Section 103. General Powers; Seal

The city of Costa Mesa, by and through its legislative body and other officials, shall have and exercise all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants, which are not prohibited by the Constitution of the State of California, and which it would be competent for this Charter to set forth particularly or specifically, 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. General powers of the city include, but are not limited to, the powers necessary or appropriate to promote the health, welfare and safety of its inhabitants. The city shall have and use a common seal and the official seal hereinbefore adopted and now in use by said city shall continue to be the official seal of the city.

## 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.

### Section 201. Legislative Body; Composition

The legislative body of the City shall consist of five (5) council members elected at large. This legislative body shall be known as the City Council, and each of its members shall be known as "Council Members." The number of terms a member of the city council may serve on the city council shall be limited to two (2) consecutive terms of four (4) years each. The City Council shall choose one of its members as mayor and one of its members as mayor pro tempore at the meeting at which the declaration of the municipal election results. The term of service for both mayor and mayor pro tempore shall be for a period of two (2) years from the date of appointment.

The Council Members shall be elected by the qualified voters of the City at a general municipal election. Their terms shall be staggered in the manner as existing at the time of the adoption of this Charter. They shall hold office for the period of four years from and after the date of certification of election results by the City Council, and until their successors are elected, and qualified.

The members of the City Council shall not be eligible to any other office or employment with the City during the period of their incumbency, and for a period of one year following the termination of their position on the City Council.

### Section 202. Time and Place of Meetings; Rules of Conduct of Proceedings

The City Council shall provide by ordinance for the time and place of holding its meetings. Special and emergency meetings shall be called in accordance with the provisions of general law. There shall be at least one regular meeting in each calendar month. Any regular meeting may be adjourned to a date and hour certain, and such adjourned meeting shall be a regular meeting for all purposes.

Meeting locations and rules for notice of, and conduct of, meetings of the City Council and all subordinate legislative bodies in the City shall be conducted in accordance with state laws and such rules for procedure as established by ordinance of the City Council.

**Section 203. Administrative Officers; Appointment and Removal; Grounds**

The following administrative officers are hereby established, each of whom shall be appointed by the City Council: a City Manager and a City Attorney.

Except as may be otherwise provided in this Charter the affirmative three (3) members of the City Council shall be required for the appointment of or the removal of any administrative officer for cause. “For cause” includes, but is not limited to, refusal to perform the duties of his or her office; being adjudged mentally incompetent; or being convicted of a felony, or crime of moral turpitude. The administrative officer is entitled to a hearing before the City Council on the validity of the grounds providing the basis for removal for cause.

The City Council may remove any of its administrative officers at its pleasure, without cause stated or hearing had, by the affirmative vote of four members in favor of such removal, and the determination of the council in such matters shall be final and conclusive.

**Section 204. Administrative Officers; Qualifications and Duties**

The City Manager shall be the administrative head of the City government. The duties of the City Manager shall be as prescribed by this Charter or by ordinance of the City Council

The City Attorney shall be the chief legal advisor to the City and the City Council. The City Attorney shall be an attorney-at-law, admitted to practice as such before the supreme court of the state, and who has been in actual practice therein for at least three years next preceding appointment. All other things being equal, an attorney who has had special training or experience in municipal corporation law shall be appointed to the office if practicable. The City Attorney shall, within his or her discretion, prosecute all violations of city ordinances and shall draft or approve all contracts and other legal documents and instruments.

**Section 205. Interference With Performance of Duties of City Manager**

No member of the City Council shall in any manner attempt to influence or coerce the City Manager in the making of any appointment or the purchase of supplies in accordance with the Charter, City ordinance, or applicable state and federal law.

Except for such direction that it provides to the City Attorney, the City Council shall deal with the administrative functions of the City through the City Manager. The City Council shall only have direct contact with the directors of the City’s departments for the purpose of asking questions.

No Council Member, and no officer, board or member of any board or commission, shall recommend the appointment of, appoint, vote for or elect, to any office, position of employment, in any department of the City government, any person related by consanguinity or connected by marriage with such Council Member. A breach of this section shall be cause for removal of any such Council Member, officer, board or member of such board or commission.

## Article 3
## Legislative Authority

**Section 300. Ordinances**

The City Council shall act by ordinance, resolution, or motion. Except for urgency ordinances, except for ordinances calling for or otherwise relating to an election, and except for other ordinances identified in the general laws of the State that do not require introduction prior to adoption, no ordinance shall be passed by the City Council on the date of its introduction, nor within five (5) days thereafter, nor at any time other than at a regular meeting. Nothing herein shall be construed as prohibiting minor changes, amendments or modifications of a proposed ordinance between the time of its introduction and final passage, providing its general scope and original purpose are retained. The affirmative vote of three (3) members shall be necessary to the passage of any ordinance. All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

The enacting clause of all ordinances shall be, “The City Council of the City of Costa Mesa does ordain as follows”. All ordinances, with the exception of the annual appropriation ordinance, shall contain but one subject, which shall clearly be stated in the title.

Fines and other penalties for the violation of City ordinances shall be in such amounts as established by the City Council in the City’s Municipal Code, but no civil fine or penalty shall exceed $2,500 for each day of the same violation provided, however, that any civil fines or penalties established by any state or federal agency, which can be imposed on the City for violations of statutes or regulations adopted by that state or federal agency, may be imposed by the City against any person, entity, or organization violating any City ordinance related to such state or federal law or regulation, in like amount. The maximum amount of any civil fines or penalties shall not be limited to those amounts established by State law for criminal fines or penalties.

## Article 4
## Fiscal Matters

**Section 400. Economic and Community Development**

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

**Section 401. Purchasing and Contracts**

“Public Works Contract," as used in this section, means an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind, which is paid for in whole with tax revenue paid by residents of the City of Costa Mesa.

“Other Public Contract” as used in this section means any contract, purchase order, or other agreement used to procure services and supplies of any kind, that are paid for in whole with tax revenue paid by the residents of the City of Costa Mesa.

The City is exempt from the provisions of all California statutes regulating public contracting and purchasing, except as provided by this Charter, City ordinance, or by agreement approved by the City Council.

Annually, the City Council shall set a value at which Public Works Contracts shall be exempt from public bidding and shall follow such procedures for open market sale or purchase as set by the City Council.

The City Council shall establish all standards, procedures, rules or regulations to regulate all aspects of the bidding, award and performance of any Public Works Contract greater than the value set by the Council, including but not limited to, the compensation rates to be paid for the performance of such work.

The City may, without exception, enter into Other Public Contracts. Other Public Contracts shall follow such procedures as set by the City Council.

No City Public Works Contract or Other Public Contract shall require payment of the prevailing wage schedule unless: the prevailing wage is legally required and constitutionally permitted to be imposed by the requirements of federal grants, state grants, redevelopment law, or other federal or state law; or the project is considered by the City Council not to be a municipal affair of the City; or payment of the prevailing wage schedule is authorized by resolution of the City Council. Payment of the prevailing wage schedule, if authorized hereunder, shall use the pertinent rates published by the State of California.

The City will promote fair and open competition for all City construction projects so that all contractors and workers, whether union or non-union, are treated equally in the bidding and awarding of City construction contracts.

**Section 402. Miscellaneous Provisions Relating to Appropriations**

Upon the request of the City Manager the City Council may, by resolution, transfer any part of an unencumbered balance of any appropriation to another purpose or object, or may, by resolution, authorize a transfer to be made between items appropriated to the same office or department. At the close of each fiscal year, the unexpended balance of each appropriation, against which no contracts or works or supplies are outstanding, shall revert to the City's general fund. Any money in the general fund otherwise unappropriated may be appropriated by the City Council at any time by resolution.

## Article 5
## Revenue Retention

**Section 500. 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 501. 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 6
## General Laws

### Section 600. General Law Powers

The City shall have the power and authority: to adopt and enforce all legislation, laws, and regulations; and to take all actions necessary 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.

### Section 601. Council Member Compensation

Notwithstanding the previous paragraph, salary of the Mayor and Council Members will continue to be set by California Government Code §36516, as that statute provides as of the date of the adoption of this Charter, where the formula considers city population and state law.

### Section 602. Employee Retirement Benefits

At the time of this Charter's adoption, no ordinance increasing any employee, legislative officer or elected official's existing retirement benefits, other post-employment benefits, or employer contributions, with the exception of Cost of Living Adjustments, shall be adopted without the majority approval of qualified voters of the City at a general municipal election. The City Council may reduce retirement benefits, other post-employment benefits, or employer contributions as provided in state law without an amendment to this section.

### Section 603. Voluntary Municipal Employee Political Contributions

Unless otherwise required by law, a city employee labor union, city contractor, or city employer ("Organization") may only make expenditures for political activities if the Organization establishes a separate segregated fund that meets the requirements of this chapter. The Organization shall ensure that: (a) In soliciting contributions for the fund, the Organization discloses, in clear and unambiguous language on the face of the solicitation, that contributions are voluntary and that the fund is a political fund and will be expended for political activities; (b) Union dues are not used for political activities, transferred to the fund, or intermingled in any way with fund moneys; (c) The cost of administering the fund is paid from fund contributions and not from union dues; (d) Each contribution is voluntary and shall be made by the member or employee and may not come from or be remitted by the employer of the member; (e) The solicitations are written and mailed to the residence of the member or employee; (f) The Organization shall not exceed two written solicitations for the fund per calendar year; and, (g) The solicitations are designed such that the Organization cannot determine who makes a contribution of less than $100 as a result of such solicitation and who does not make such a contribution. The Organization has the burden of proof to establish that the requirements above are met.

## Article 7
## Interpretation

**Section 700. 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 701. 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 8
## Amendment

**Section 800. Amendment to Charter, Revised or Repealed**

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

## AUTHENTICATION
## AND
## CERTIFICATION

Authenticated and certified to be a true copy by Mayor _____ and City Clerk _____.

Date of Municipal Election: ATTEST:

_____ _____

_____, Mayor _____, City Clerk