CITY COUNCIL AGENDA REPORT

MEETING DATE: MARCH 6, 2012 **ITEM NUMBER: NB-2**

SUBJECT: **PROPOSED CITY CHARTER AND PLACEMENT ON JUNE 5, 2012 BALLOT**

DATE: **FEBRUARY 29, 2012**

FROM: **THOMAS P. DUARTE, DUARTE, CITY ATTORNEY**

PRESENTATION BY: **THOMAS P. DUARTE, CITY ATTORNEY**

FOR FURTHER INFORMATION CONTACT: **WILLIAM LOBDELL @ (714) 754-5288.**

RECOMMENDATION:

Consider the approval of the following resolutions and provide direction.

(a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, PROPOSING A MEASURE FOR THE SUBMISSION TO THE VOTERS OF A QUESTION WHETHER THE CITY OF COSTA MESA SHALL ADOPT THE PROPOSED CHARTER (Attachment 1)

Recommendation: **Adopt resolution**

(b) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 5, 2012, 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 THE ADOPTION OF A PROPOSED CHARTER BY THE CITY (Attachment 2)

Recommendation: **Adopt resolution**

(c) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A SPECIAL MUNICIPAL ELECTION TO BE HELD ON JUNE 5, 2012, WITH THE STATEWIDE PRIMARY ELECTION TO BE HELD ON THE DATE PURSUANT TO § 10403 OF THE ELECTIONS CODE (Attachment 3)

Recommendation: **Adopt resolution**

(d) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS (Attachment 4)

Recommendation: Adopt resolution

(e) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT THE SPECIAL MUNICIPAL ELECTION (Attachment 5)

Recommendation: Adopt resolution

BACKGROUND:

In the fall of 2011, City Council asked the City Attorney to investigate the benefits and variations of the Charter form of city government. The City Council subsequently provided direction to City Staff and the City Attorney's office to draft a charter ("Proposed Charter") that could be submitted to the qualified voters of the City for the June 5, 2012 election. To that end, City Staff and the City Attorney prepared the Proposed Charter, submitted it to the City Council for review/revision and for the purposes of conducting public hearings (as required by California Government Code Section 34458(b)).

Pursuant to California Government Code Section 34458(b), Public Hearings were held on the substance of the Proposed Charter and on the question of submitting the Proposed Charter, on January 10, 2012 and February 13, 2012. Throughout this entire process, City Council directed both City Staff and the City Attorney to revise and clarify certain provisions based upon feedback garnered from the Public Hearings.

ANALYSIS:

After several months of discussion, hearings, and revisions, the final step, absent any minor subtractions or editing, in submitting the Proposed Charter to the qualified voters of the City is to pass the following resolutions:

(a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, PROPOSING A MEASURE FOR THE SUBMISSION TO THE VOTERS OF A QUESTION WHETHER THE CITY OF COSTA MESA SHALL ADOPT THE PROPOSED CHARTER

This resolution of the City Council would authorize the submission of the following question to the qualified voters of the City as a ballot measure:

"Shall the City of Costa Mesa adopt the Proposed Charter?"

(b) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 5, 2012, 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 THE ADOPTION OF A PROPOSED CHARTER BY THE CITY

This resolution of the City Council would call a Special Municipal Election, pursuant to the general laws of California relating to cities, for June 5, 2012. This resolution would further direct the City Clerk to give notice of the time and place of the holding of such election.

(c) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A SPECIAL MUNICIPAL ELECTION TO BE HELD ON JUNE 5, 2012, WITH THE STATEWIDE PRIMARY ELECTION TO BE HELD ON THE DATE PURSUANT TO § 10403 OF THE ELECTIONS CODE

This resolution of the City Council would request the Orange County Board of Supervisors to consolidate the City's Special Municipal Election (to be held on June 5, 2012) with the Statewide Primary Election (to be held on the same date). It further authorizes the relevant county election department to take any steps necessary for the holding of this consolidated election. Finally, this resolution would express the City's agreement to pay for the costs associated with holding this consolidated election.

(d) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

This resolution would authorize certain members of the City Council to write arguments in favor, and against, the Proposed Charter. California Elections Code Section 9287 governs the preference and priority of each argument, in the order named, in the following manner:

(i) The legislative body, or member or members of the legislative body authorized by that body.
(ii) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.
(iii) Bona fide associations of citizens.
(iv) Individual voters who are eligible to vote on the measure.

Timing of the submission of such arguments will be determined by the City Clerk. This resolution would further direct the City Attorney's office to draft an impartial opinion regarding the substance of the Proposed Charter.

(e) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT THE SPECIAL MUNICIPAL ELECTION.

This resolution would provide for the filing of rebuttal arguments after the submission of arguments for and against the Proposed Charter.

In addition to approving the resolutions, the Council could provide direction to Staff in two areas:

1. Should the proposed charter be included in the sample ballot from the Orange County Registrar of Voters? Its inclusion would entail an extra cost for the additional pages, but it would serve the City's commitment to transparency by getting a copy of the charter to every registered voter in Costa Mesa.

2. Should the City embark on an informational campaign that, under the City Attorney's Office direction, would provide residents with nonpartisan information about the proposed City charter? For instance, the City could produce advertisements for local media that would feature the proposed charter with side notes on what each provision would do and/or how each provision would be different than how the City currently operates.

ALTERNATIVES CONSIDERED:

Council can choose to not approve the attached resolutions and, thereby, choose not to submit the Proposed Charter to the qualified voters of the City for the June 5, 2012 consolidated election.

FISCAL REVIEW:

If the proposed charter is placed on the June 5, 2012 ballot, then the Registrar of Voters estimates the cost to consolidate to be in the range of $97,500 to $123,500. If placed on the November 2012 ballot, the Registrar of Voters estimates the cost to consolidate to be in the range of $78,500 to $97,500. If approved for the ballot, the City Council will be presented a budget amendment at the mid-year budget review on March 20, 2012. The money will come from the contingency fund.

LEGAL REVIEW:

The City Attorney's office has reviewed this report and attachments and approves as to the form found therein.

CONCLUSION:

Council is requested to decide on the several attached resolutions on the matter of the Proposed Charter.

THOMAS R. HATCH
Chief Executive Officer

THOMAS P. DUARTE
City Attorney

ATTACHMENTS:

1. A Resolution of the City Council of the City of Costa Mesa, California Proposing a Measure for the Submission to the Voters of a Question Whether the City of Costa Mesa Shall Adopt the Proposed Charter

2. A Resolution of the City Council of the City of Costa Mesa, California Calling and Giving Notice of the Holding of a Special Municipal Election to be Held on Tuesday, June 5, 2012, 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 the Adoption of a Proposed Charter by the City

3. A Resolution of the City Council of the City of Costa Mesa, California, Requesting the Board of Supervisors of the County of Orange to Consolidate a Special Municipal Election to be Held on June 5, 2012 with the Statewide Primary Election to be Held on the Date Pursuant to § 10403 of the Elections Code

4. A Resolution of the City Council of the City of Costa Mesa, California, Setting Priorities for Filing Written Argument(s) Regarding a City Measure and Directing the City Attorney to Prepare an Impartial Analysis

5. A Resolution of the City Council of the City of Costa Mesa, California, Providing for the Filing of Rebuttal Arguments for City Measures Submitted at the Special Municipal Election

6. Ballot Summary for Proposed Charter

7. Proposed City Charter

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, PROPOSING A MEASURE FOR THE SUBMISSION TO THE VOTERS OF A QUESTION WHETHER THE CITY OF COSTA MESA SHALL ADOPT THE PROPOSED CHARTER.

WHEREAS, the City Council of the City of Costa Mesa, California, desires to submit to the voters of the City at a Special Municipal Election a proposed measure relating to the question whether the City of Costa Mesa shall adopt the proposed charter;

WHEREAS, pursuant to authority provided by Article XI of the Constitution; Title 4, Division 2, Chapter 2 of the Government Code (commencing at §34450); and Division 9, Chapter 3, Article 3 (commencing at § 9255) of the Elections Code of the State of California, the City Council of the City of Costa Mesa desires to submit to the voters a proposed charter; and

WHEREAS, California Government Code § 34458(a) provides an alternative procedure in which City Council may submit the proposed charter to the qualified electors of the City;

WHERAS, California Government Code Section 34458(b) requires that two public hearings be held upon the matter of the proposal of a charter and the content of the proposed charter prior to its submission to the qualified electors of the City;

WHEREAS, California Government Code Section 34458(b) requires that the City Council may vote upon the question of whether to approve the submission of the proposed charter to the qualified electors of the City only after 21 days have elapsed since the second public hearing as described above;

WHEREAS, the City Council held public hearings on the questions of the substance of the proposed charter and the submission of the proposed charter to a the qualified voters of the City on January 10, 2012 and February 13, 2012;

WHEREAS, the City Council has determined that enactment of the proposed charter would be beneficial for the City of Costa Mesa and its residents by providing a residents with the ultimate say in all municipal affairs.

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

SECTION 1. That a Measure be proposed to the voters of Costa Mesa on the following question:

Shall the City of Costa Mesa adopt the Proposed Charter?	YES
	NO

SECTION 2. This resolution and the proposed charter, including the full text of the proposed charter, attached as Exhibit A shall be made available in print and for public examination by the City Clerk, in accordance with California Elections Code Sections 9223 and 9295.

SECTION 3. The election upon which the voters are to vote on the Measure proposing the question of whether the City of Costa Mesa shall adopt the proposed charter is Tuesday, June 5, 2012, pursuant to a separate resolution of the City Council calling a Special Municipal Election for that purpose.

SECTION 4. Should any section, subsection, clause or provision of this resolution for any reason be held to be invalid, then the remainder of the resolution shall be deemed valid, it being hereby expressly declared that this resolution, and each and every section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified even if any other section, subsection, sentence, clause or phrase of this resolution were declared invalid.

SECTION 5. Any legal action to challenge, test, or otherwise determine the validity of this resolution, or any portion thereof must be brought within sixty days of the effective date of this resolution, in accordance with the provisions of California Code of Civil Procedure Section 860 et seq., and Sections 860 and 863 in particular, or any shorter period of time provided by applicable law.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this 6th day of March, 2012.

_____
Gary Monahan, Mayor

ATTEST:

APPROVED AS TO FORM:

_____
Julie Folcik, City Clerk

_____
Thomas Duarte, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 12-__ and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 6th day of March, 2012, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 7th day of March, 2012.

_____
JULIE FOLCIK, CITY CLERK

(SEAL)

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 5, 2012, 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 THE ADOPTION OF A PROPOSED CHARTER BY THE CITY.

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a Special Municipal Election shall be held on June 5, 2012; and

WHEREAS, the City Council desires to submit to the voters at the election a question relating to the adoption of a proposed charter by the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES 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 Costa Mesa, California, on Tuesday, June 5, 2012, a Special Municipal Election.

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

Shall the City of Costa Mesa adopt the Proposed Charter?	**YES**
	NO

SECTION 3. That the proposed complete text of the measure and proposed Charter submitted to the voters are attached to Resolution _____.

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.

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 eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Election Code § 10242, except as provided in § 14401 of the Elections Code of the State of California.

SECTION 7. 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 8. 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 9. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 10. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

PASSED AND ADOPTED this 6th day of March, 2012.

_____
Gary Monahan, Mayor

ATTEST:

_____
Julie Folcik, City Clerk

APPROVED AS TO FORM:

_____
Thomas Duarte, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 12-__ and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 6th day of March, 2012, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 7th day of March, 2012.

_____
JULIE FOLCIK, CITY CLERK

(SEAL)

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A SPECIAL MUNICIPAL ELECTION TO BE HELD ON JUNE 5, 2012, WITH THE STATEWIDE PRIMARY ELECTION TO BE HELD ON THE DATE PURSUANT TO § 10403 OF THE ELECTIONS CODE.

WHEREAS, the City Council of the City of Costa Mesa called a Special Municipal Election to be held on June 5, 2012, for the purpose of the election to submit to the voters a question relating to the adoption of a proposed charter by the City; and

WHEREAS, it is desirable that the Special Municipal Election be consolidated with the Statewide Primary election to be held on the same date and that within the city the precincts, polling places and election officers of the two elections be the same, and that the county election department of the County of Orange canvass the returns of the Special Municipal Election and that the election be held in all respects as if there were only one election;

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

SECTION 1. That pursuant to the requirements of § 10403 of the California Elections Code, the Board of Supervisors of the County of Orange is hereby requested to consent and agree to the consolidation of a Special Municipal Election with the Statewide Primary election on Tuesday, June 5, 2012, for the purpose of submitting to the voters a question regarding whether the City shall adopt the proposed charter;

SECTION 2. That a measure is to appear on the ballot as follows:

Shall the City of Costa Mesa adopt the Proposed Charter?	**YES**
	NO

SECTION 3. That the county election department is authorized to canvass the returns of the Special Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

SECTION 4. That the Board of Supervisors is requested to issue instructions to the county election department to take any and all steps necessary for the holding of the consolidated election.

SECTION 5. That the City of Costa Mesa recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any such additional costs.

SECTION 6. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the county election department of the County of Orange.

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 AND ADOPTED this 6th day of March, 2012.

_____
Gary Monahan, Mayor

ATTEST:

_____
Julie Folcik, City Clerk

APPROVED AS TO FORM:

_____
Thomas Duarte, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 12-__ and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 6th day of March, 2012, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 7th day of March, 2012.

_____
JULIE FOLCIK, CITY CLERK

(SEAL)

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

WHEREAS, a Special Municipal Election is to be held in the City of Costa Mesa, California, on June 5, 2012, at which there will be submitted to the voters the following measure:

Shall the City of Costa Mesa adopt the Proposed Charter?	**YES**
	NO

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council authorizes any and all members of the City Council to file written arguments In Favor or Against City measure, which shall not exceed 300 words in length, accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including March 9, 2012.

The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Form of Statement To Be Filed By Author(s) of Argument, and

Authorization For Signer, if applicable (Attachment 1). The arguments shall be filed, as stated above by March 9, 2012.

SECTION 2. If more than one argument for or against the City measure is submitted to the City Clerk, the City Clerk shall select one of the arguments for printing and distribution to the voters, according to the following preference and priority, in the order named: the City Council, or member or members of the City Council; a bona fide association of citizens; individual voters who are eligible to vote on the City measure; any combination of voters and associations. The City Clerk shall refer to the "Handbook for Submitting Ballot Arguments and Rebuttal Arguments for Countywide Measures" (Orange County Registrar of Voters, 2008) as a guide, where applicable and where not in conflict with the California Elections Code, in disposing of her duties relating to the filing of written arguments.

SECTION 3. No City funds or resources shall be spent in connection with any councilmember's writing of ballot arguments as described herein.

SECTION 4. The City Clerk shall make the selected arguments for and against the City Measure available for public examination in accordance with the provisions of California Elections Code Section 9295.

SECTION 5. The City Clerk shall transmit the selected arguments for or against to the Elections Official for the County of Orange on the date required by that official, for inclusion in the official election pamphlet for the election on June 5, 2012. The following shall be printed on the front cover or on the heading of the first page of the pamphlet relating to the arguments: Arguments in support or opposition of the proposed laws are the opinions of the authors."

SECTION 6. The City Council directs the City Clerk to also transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected. The City Attorney shall prepare an impartial analysis of the measure **not exceeding 500 words** showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by March 9, 2012.

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 AND ADOPTED this 6th day of March, 2012.

_____
Gary Monahan, Mayor

ATTEST:

_____
Julie Folcik, City Clerk

APPROVED AS TO FORM:

_____
Thomas Duarte, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 12-__ and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 6th day of March, 2012, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 7th day of March, 2012.

_____
JULIE FOLCIK, CITY CLERK

(SEAL)

Attachment 1

FORM OF STATEMENT TO BE FILED BY AUTHORS OF ARGUMENTS

All arguments concerning measures filed pursuant to Division 9, Chapter 3 (beginning with § 9200) of the Elections Code shall be accompanied by the following form statement **to be signed** by each proponent, and by each author, if different, of the argument:

The undersigned proponent (s) or author(s) of the (primary/rebuttal) argument (in favor of/against) ballot proposition (name or number) at the Special Municipal election for the City of Costa Mesa be held on June 5, 2012, hereby state that the argument is true and correct to the best of (his/her/their) knowledge and belief.

Sign Name	Print Name	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Editor's Notes:

All Authors must print his/her name **<u>and sign this form</u>** (EC 9600)
AND
Print his/her name **<u>and sign the Argument itself</u>** (EC 9283)
AND
Print his/her name **<u>and sign the Rebuttal Argument itself</u>** (EC 9285)

Further, pursuant to Election Code § **9282**, printed arguments submitted to the voters shall be titled either "Argument In Favor Of Measure __" or "Argument Against Measure __".

Likewise, printed rebuttal arguments submitted pursuant to Election Code § 9285 shall be titled either "Rebuttal To Argument In Favor Of Measure __" or "Rebuttal to Argument Against Measure __".

Attachment 1

Authorization for Signers of Direct Arguments

To be completed by the author(s) of the Direct Argument

The undersigned author(s) of the argument _____ In Favor of / or _____ Against Measure _____ at the Special Municipal Election to be held on June 5, 2012 authorize (s) the following individual(s) to sign the Direct Argument in the following manner:

1. _____ (print name of Direct Argument Signor) **to sign in addition to** _____ (print name of Direct Argument author) _____ (Date)

2. _____ (print name of Direct Argument Signor) **to sign in addition to** _____ (print name of Direct Argument author) _____ (Date)

3. _____ (print name of Direct Argument Signor) **to sign in addition to** _____ (print name of Direct Argument author) _____ (Date)

4. _____ (print name of Direct Argument Signor) **to sign in addition to** _____ (print name of Direct Argument author) _____ (Date)

5. _____ (print name of Direct Argument Signor) **to sign in addition to** _____ (print name of Direct Argument author) _____ (Date)

_____
Signature of Direct Argument Author (s) **Date** _____

_____
Signature of Direct Argument Author (s) **Date** _____

_____
Signature of Direct Argument Author (s) **Date** _____

_____
Signature of Direct Argument Author (s) **Date** _____

_____
Signature of Direct Argument Author (s) **Date** _____

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT THE SPECIAL MUNICIPAL ELECTION.

WHEREAS, the City Council of the City of Costa Mesa called a Special Municipal Election to be held on June 5, 2012 for the purpose of submitting to the voters a ballot measure relating to the Proposed Charter, as follows:

Shall the City of Costa Mesa adopt the Proposed Charter?	**YES**
	NO

WHEREAS, § 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for city measures submitted at municipal elections.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to Section 9285 of the Elections Code of the State of California, when the elections official has selected the arguments for and against the measure which will be printed and distributed to the voters, the elections official 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 immediately upon receiving the arguments.

The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument

A rebuttal argument may not be signed by more than five authors.

The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than 10 days after the final date for filing direct arguments. The rebuttal arguments shall be accompanied by the Form of Statement To Be Filed By Author(s) of Argument, and Authorization For Signer, if applicable (Attachment 1).

Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut. The City Clerk shall refer to the "Handbook for Submitting Ballot Arguments and Rebuttal Arguments for Countywide Measures" (Orange County Registrar of Voters, 2008) as a guide, where applicable and where not in conflict with the California Elections Code, in disposing of her duties relating to the filing of rebuttal arguments.

SECTION 2. That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

SECTION 3. That the provisions of Section 1 shall apply only to the election to be held on June 5, 2012, and shall then be repealed.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED this 6th day of March, 2012.

_____
Gary Monahan, Mayor

ATTEST:

_____
Julie Folcik, City Clerk

APPROVED AS TO FORM:

_____
Thomas Duarte, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 12-__ and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 6th day of March, 2012, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 7th day of March, 2012.

_____
JULIE FOLCIK, CITY CLERK

(SEAL)

Attachment 1

FORM OF STATEMENT TO BE FILED BY AUTHORS OF ARGUMENTS

All arguments concerning measures filed pursuant to Division 9, Chapter 3 (beginning with § 9200) of the Elections Code shall be accompanied by the following form statement **to be signed** by each proponent, and by each author, if different, of the argument:

The undersigned proponent (s) or author(s) of the (primary/rebuttal) argument (in favor of/against) ballot proposition (name or number) at the Special Municipal election for the City of Costa Mesa to be held on June 5, 2012, hereby state that the argument is true and correct to the best of (his/her/their) knowledge and belief.

Sign Name	Print Name	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Editor's Notes:

All Authors must print his/her name **and sign this form** (EC 9600)
AND
Print his/her name **and sign the Argument itself** (EC 9283)
AND
Print his/her name **and sign the Rebuttal Argument itself** (EC 9285)

Further, pursuant to Election Code § **9282**, printed arguments submitted to the voters shall be titled either "Argument In Favor Of Measure __" or "Argument Against Measure __".

Likewise, printed rebuttal arguments submitted pursuant to Election Code § 9285 shall be titled either "Rebuttal To Argument In Favor Of Measure __" or "Rebuttal to Argument Against Measure __".

Attachment 1

Authorization for Signers of Rebuttal Arguments

To be completed by the author(s) of the Direct Argument

The undersigned author(s) of the argument _____ In Favor of OR _____ Against Measure _____ at the Special Municipal Election to be held on June 5, 2012 authorize(s) the following individual(s) to sign the Rebuttal Argument in the following manner:

1. _____ (print name of Rebuttal Argument Signor) **to sign in addition to / instead of** _____ (print name of Rebuttal Argument author) _____ (Date)

2. _____ (print name of Rebuttal Argument Signor) **to sign in addition to / instead of** _____ (print name of Rebuttal Argument author) _____ (Date)

3. _____ (print name of Rebuttal Argument Signor) **to sign in addition to / instead of** _____ (print name of Rebuttal Argument author) _____ (Date)

4. _____ (print name of Rebuttal Argument Signor) **to sign in addition to / instead of** _____ (print name of Rebuttal Argument author) _____ (Date)

5. _____ (print name of Rebuttal Argument Signor) **to sign in addition to / instead of** _____ (print name of Rebuttal Argument author) _____ (Date)

_____
Signature of Rebuttal Argument Author (s) **Date** _____

_____
Signature of Rebuttal Argument Author (s) **Date** _____

_____
Signature of Rebuttal Argument Author (s) **Date** _____

_____
Signature of Rebuttal Argument Author (s) **Date** _____

_____
Signature of Rebuttal Argument Author (s) **Date** _____

Ballot Title/Question: Shall the City of Costa Mesa adopt the Proposed Charter?

A vote in favor of Measure _____ changes the City of Costa Mesa from a general law city to a charter city with all attendant powers of a charter city. If passed, Costa Mesa will have authority over municipal affairs as defined by California's Constitution and courts, including the following:

1. Form of Government: The Proposed Charter requires that the City continue to use the "council-manager" form. However, by vote of City residents, the City could later change this to any alternative form of government different from the "council-manager" form.

2. Purchasing and Contracting: The Proposed Charter allows the City to engage in contracting/purchasing that is different from California general law (e.g. prevailing wages *not* required for municipal Public Works Projects funded solely with City funds). However, by vote of City residents, the City could later change contracting/purchasing to something different from both the Proposed Charter, and general law.

3. Voluntary Employee Political Contribution: The Proposed Charter does not allow the city to collect political contributions through payroll deductions from city employees. However, by vote of City residents, the City could later change its handling of this.

4. Public Employee Pension Benefits: The Proposed Charter requires a vote of City residents before any increase of the employee or officers' retirement benefits. However, by vote of City residents, the City could later change its handling of this.

5. Council Compensation: The Proposed Charter requires that the City continue to follow California General Law which regulates the compensation of city council members. However, by vote of City residents, the City could later change its handling of this.

6. Elections: The Proposed Charter requires that elections are continued to be governed by California General Law. However, by vote of City residents, the City could later change this and set up its own rules and regulations in handling its municipal elections.

7. Management of non-elected City Officers/Employees: The Proposed Charter proscribes rules regarding the election, appointment, and removal of municipal officers and employees whose compensation is paid by the City, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees. However, by vote of City residents, the City could later change this.

8. Adoption of Ordinances: The Proposed Charter requires the City to continue to follow California General Law in considering ordinances for adoption. However, by vote of City residents, the City could later change this to set up its own rules and regulations regarding adoption of municipal ordinances.

9. Taxes and Assessments: The Proposed Charter prohibits taxation of property sales. However, by vote of City residents, the City could later enact property sales taxes.

10. The Proposed Charter also authorizes the City to take actions and pass ordinances consistent with the City's status as a charter city in connection with its municipal affairs. Changes to the Proposed Charter, if enacted, would require vote of City residents.

CHARTER
OF THE
CITY OF COSTA MESA

WE THE PEOPLE of the City of Costa Mesa, California, ("City") declare our intent to restore to our community the historic principles of self-governance inherent in the doctrine of home-rule. We believe that fiscal responsibility and the prudent stewardship of public funds is essential for confidence in government, that ethics and integrity are the foundation of public trust, that the rule of law must be followed, and that just governance is built upon these values. We declare our intent to enact and adopt this Charter for the City of Costa Mesa in our firm 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. It is incumbent upon those who govern and make decisions for, and on behalf, of the City of Costa Mesa to legally, as well as morally, abide by the provisions of this Charter in order to assure the continued success and well-being of our 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; Boundaries

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 existing 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 Constitutionally, statutorily and judicially defined laws 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 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 Chief Executive Officer ("CEO") 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 municipal election results are certified. The term of service for both Mayor and Mayor Pro Tempore shall be for a period of two (2) years from the effective 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. A candidate for City Council must meet qualifications as set forth in the general laws of the State, as applicable and as may be amended and recodified.

The members of the City Council shall not be eligible to any hold any other office or employment with the City during the period of their term of service, 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 or resolution for the time and place of holding its meetings. Special and emergency meetings shall be called in accordance with the provisions of general laws of the State of California. 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 CEO 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 (4) 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 CEO shall be the administrative head of the City government. The duties of the City CEO 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 California Supreme Court, and who has been in actual practice therein for at least three (3) 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 CEO

No member of the City Council shall in any manner attempt to influence or coerce the City CEO 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, and its members, shall deal with the administrative functions of the City only through the City CEO, except for the purpose of inquiry to senior managers, and neither the City Council, nor any member thereof, shall give direct orders to any subordinates of the City CEO.

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.

Article 3
Legislative Authority

Section 300. Ordinances

The City Council shall act by ordinance, resolution, or motion. Except as otherwise stated herein, ordinances shall be passed pursuant to the California Government Code and in accordance with any other applicable law, as may be amended and recodified. All ordinances shall have two readings in which the first reading shall occur at a regularly scheduled City Council meeting or at an adjourned regular City Council meeting, 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. Further, no ordinance shall be effective until at least 30 days after its final adoption, 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.

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 an amount set by ordinance of the City Council 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.

Section 301. General Plan Consistency

Pursuant to the general laws of the State, as may be amended or recodified, zoning ordinances adopted by the City Council shall be consistent with the General Plan of the City. A zoning ordinance shall be consistent with a City general plan only if both of the following conditions are met:

(1) The City has officially adopted such a plan.

(2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan.

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, equipment, and supplies of any kind, which is 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, by ordinance or resolution, 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 resolution or

ordinance, 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 a prevailing wage schedule unless: a prevailing wage schedule 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; the project is considered by the City Council, by resolution, not to be a municipal affair of the City; or payment of a prevailing wage schedule is authorized by resolution of the City Council. Payment of a prevailing wage schedule, if authorized hereunder, shall be determined by consulting 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 Public Works Contracts and Other Public Contracts.

Section 402. Miscellaneous Provisions Relating to Appropriations

Upon the request of the City CEO, 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.

Section 403. Prohibition against Property Transfer Tax

There shall be no transaction tax, sales tax, or any other kind of tax imposed upon any sale, grant, transfer, assignment, or otherwise conveyance of real property from one party, or parties, to another party, or parties, within the City. This section does not affect any existing "Documentary Transfer Tax" as described in Part 6.7 (commencing with section 11901) of Division 2 of the Revenue and Taxation Code of the State of California, as may be amended or recodified.

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 State 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 State 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 may be amended and recodified, 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

Upon 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 Participation in Employee Organizations

Pursuant to California Government Code Section 3502, as may be amended or recodified, City employees shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City.

Section 604. Voluntary Municipal Employee Political Contributions

Unless otherwise required by law, a City employee labor union, City contractor, City employer, or City employee association ("Organization") may only make expenditures for political activities if the Organization establishes a separate segregated fund that meets the requirements of this section. 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) Any fees or dues collected from the members of the Organization 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 any of the fees or 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 or employee; (e) The solicitations are written and mailed, by the U.S. Postal Service, 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 is in compliance with California Government Code Section 84304, as may be amended or recodified. The Organization has the burden of proof to establish that the requirements above are met.

Article 7
Elections

Section 700. General Municipal Elections

General municipal elections for the election of officers and for such other purposes as the City Council may prescribe shall be held in the City in accordance with the provisions of California Elections Code, Government Code, and any other applicable law, as may be amended or recodified.

Section 701. Special Municipal Elections

All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special municipal elections.

Section 702. Procedure for Holding Elections

Unless otherwise provided by ordinance here-after enacted, all elections shall be held in accordance with the provisions of the Elections Code of the State of California and any other applicable law, as may be amended or recodified, for the holding of municipal elections so far as the same are not in conflict with this charter.

Section 703. Initiative, Referendum, and Recall

There are hereby reserved to the electors of the City the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as may be amended or recodified, governing the initiative, referendum and the recall of Council Members, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

Article 8
Interpretation

Section 800. 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 801. 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 9
Amendment

Section 900. 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 City Council.

Section 901. Review of the Charter

The City Council shall hold a public hearing during the second meeting of every tenth year after this Charter is adopted to determine if a Charter Review Commission is needed to review the City Charter, and report to the City Council suggested amendments, if any, for consideration and possible action. This section in no way limits the provisions of Section 900.

AUTHENTICATION
AND
CERTIFICATION

Authenticated and certified to be a true copy by Mayor _____

and City Clerk _____.

Date of Municipal Election:

ATTEST:

_____
Mayor

_____
City Clerk