

CITY OF CARSON

CITY CHARTER

AS OF July 7, 2018

The City of Carson, incorporated as a California general law city on February 20, 1968. On \_\_\_\_\_, with the city's voters approval, the City of Carson became a California chartered city.

**TABLE OF CONTENTS**

PREAMBLE..... 6

ARTICLE I – INCORPORATION AND SUCCESSION..... 7

    SECTION 100. Name and Boundaries. .... 7

    SECTION 101. Succession, Rights and Liabilities..... 7

    SECTION 102. Ordinances. .... 7

    SECTION 103. Continuance of Present Officers and Employees. .... 7

    SECTION 104. Continuance of Contracts and Franchises. .... 8

    SECTION 105. Pending Actions and Proceedings. .... 8

    SECTION 106. Seal..... 8

    SECTION 107. Severability. .... 9

    SECTION 108. Effective Date of Charter..... 9

    SECTION 109. Amendment. .... 9

ARTICLE II – POWERS OF THE CITY ..... 10

    SECTION 200. Powers. .... 10

    SECTION 201. Procedures. .... 10

    SECTION 202. Form of Government..... 10

    SECTION 203. Intergovernmental Relations. .... 11

    SECTION 204. Establishment of Specialized Agencies or Authorities. .... 11

    SECTION 205. [TBD]..... 11

    SECTION 206. [TBD]..... 11

    SECTION 207. Economic Development. .... 12

    SECTION 208. General Land Use Authority..... 16

    SECTION 209. Oil and Gas Regulation..... 18

    SECTION 210. Cannabis Regulation..... 18

ARTICLE III – CITY COUNCIL..... 20

    SECTION 300. Powers Vested in the City Council. .... 20

    SECTION 301. Elective Officers; Indemnification..... 20

    SECTION 302. Mayor; Mayor Pro Tempore..... 20

    SECTION 303. Eligibility..... 21

    SECTION 304. Compensation and Expenses..... 21

    SECTION 305. Limitation of Terms. .... 22

    SECTION 306. Vacancies. .... 22

    SECTION 307. Interference in Administrative Service..... 24

    SECTION 308. Meetings. .... 24

SECTION 309. Special Meetings.....	25
SECTION 310. Quorum; Proceedings.....	26
SECTION 311. Oaths; Subpoenas.....	26
SECTION 312. Citizen Participation.....	26
SECTION 313. Adoption of Ordinances and Resolutions.....	27
SECTION 314. Ordinances; Publication.....	28
SECTION 315. Codification of Ordinances.....	28
SECTION 316. Ordinances; When Effective.....	29
SECTION 317. Ordinances; Violation; Penalty.....	30
SECTION 318. Publishing of Legal Notices.....	30
SECTION 319. Contracts; Execution.....	30
ARTICLE IV – CITY MANAGER AND CITY ATTORNEY.....	32
SECTION 400. City Manager.....	32
SECTION 401. Eligibility.....	32
SECTION 402. Compensation and Bond.....	32
SECTION 403. City Manager Powers and Duties.....	33
SECTION 404. Removal.....	35
SECTION 405. Acting City Manager.....	35
SECTION 406. City Attorney.....	35
SECTION 407. City Attorney, Powers and Duties.....	36
ARTICLE V – OFFICERS AND EMPLOYEES.....	38
SECTION 500. Administrative Departments.....	38
SECTION 501. City Clerk; Powers and Duties.....	38
SECTION 502. City Treasurer.....	39
SECTION 503. Compensation.....	41
SECTION 504. Department Heads.....	41
SECTION 505. Indemnification of Officers and Employees.....	41
ARTICLE VI – APPOINTIVE BOARDS, COMMITTEES AND COMMISSIONS.....	43
SECTION 600. In General.....	43
SECTION 601. Appropriations.....	43
SECTION 602. Appointments; Terms.....	43
SECTION 603. Meetings, Chairs.....	44
SECTION 604. Compensation.....	45
SECTION 605. Removal; Vacancies.....	45

SECTION 606. [TBD].....	46
SECTION 607. Planning Commission; Powers and Duties. ....	46
ARTICLE VII – PERSONNEL SYSTEM.....	48
SECTION 700. Personnel System.....	48
SECTION 701. Personnel Rules and Policies .....	48
SECTION 702. Contracts with Employees; State Employees Retirement System. ...	49
SECTION 703. Eligibility for Appointed Office. ....	50
SECTION 704. Illegal Contracts; Financial Interest.....	50
SECTION 705. Personnel Appeals Board. ....	51
ARTICLE VIII – ELECTIONS .....	53
SECTION 800. General Municipal Elections. ....	53
SECTION 801. Special Municipal Elections. ....	53
SECTION 802. Procedure for Holding Elections. ....	53
SECTION 803. Initiative , Referendum and Recall. ....	53
ARTICLE IX – FISCAL ADMINISTRATION.....	54
SECTION 900. Fiscal Year.....	54
SECTION 901. Annual Budget. ....	54
SECTION 902. Proposed Budget, Submission to City Council.....	54
SECTION 903. Budget, Public Hearing. ....	55
SECTION 904. Budget; Adoption. ....	55
SECTION 905. Budget; Appropriations. ....	55
SECTION 906. Municipal Finance and Tax Authority .....	56
SECTION 907. Limitation on Tax Authority. ....	56
SECTION 908. Fees and Assessments.....	57
SECTION 909. Bonded Debt.....	57
SECTION 910. Election for Major Capital Projects. ....	58
SECTION 911. Enterprise Funds.....	59
SECTION 912. Presentation of Demands. ....	59
SECTION 913. Independent Audit.....	61
SECTION 914. Purchasing Ordinance. ....	61
SECTION 915. Outsourcing. ....	62
ARTICLE X – FRANCHISES.....	64
SECTION 1000. Granting of Franchises.....	64
SECTION 1001. Resolution of Intention; Notice and Public Hearing.....	64

SECTION 1002. Term of Franchise..... 65  
SECTION 1003. Franchise Inapplicable to City..... 66  
SECTION 1004. Eminent Domain..... 66

## PREAMBLE

We, the People of the City of Carson, State of California, declare our intent to protect and preserve the values that have guided and sustained our City since it was formed in 1968. We hold dear the historic doctrine of home rule; the right to determine the structure of our government, our land uses and forms, and the character of our community. Our City has special resources with a strong industrial base and unique development opportunities; the City can be an economic power house at the center of major transportation corridors. Proper development would allow us to provide the highest quality of life and services for our residents. We believe 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; and that just governance is built upon these values. The express purpose of this Charter is to secure and exercise for the City of Carson the full scope of control over its municipal affairs that is authorized by law. We do hereby exercise the express home rule rights granted by the Constitution of the State of California for the people and adopt this Charter for the citizens of the City of Carson.

## **ARTICLE I – INCORPORATION AND SUCCESSION**

### **SECTION 100. Name and Boundaries.**

The City of Carson, hereinafter termed the City, shall continue to be a California municipal corporation under its present name of "City of Carson." The boundaries of the City shall be the boundaries established at the time this Charter takes effect, and as such boundaries may be changed thereafter from time to time in the manner authorized by law.

### **SECTION 101. Succession, Rights and Liabilities.**

The City shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Charter takes effect and shall continue to be subject to all its debts, obligations, liabilities and contracts.

### **SECTION 102. Ordinances.**

All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, are hereby continued in force until they are repealed, amended, changed or superseded.

### **SECTION 103. Continuance of Present Officers and Employees.**

The present officers and employees of the City shall continue to perform the duties of their respective offices and employments without interruption and for the same compensations and under the same conditions until the appointment or election and qualification of their successors, but subject to removal, amendment, change, or control as provided by this Charter. Nothing contained in this Charter, unless specifically otherwise provided herein, shall affect or impair the personnel, pension, or retirement

rights or privileges of officers or employees of the City, or of any office, department, or agency thereof, existing at the time this Charter takes effect.

**SECTION 104. Continuance of Contracts and Franchises.**

All contracts entered into by the City or for its benefit prior to the effective date of this Charter and then in effect, shall continue in full force and effect according to their terms, except as provided in Section 1002 for certain franchises.

**SECTION 105. Pending Actions and Proceedings.**

No action or proceeding, civil or criminal, filed and pending at the time this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or by anything contained in the Charter, but all such actions or proceedings may be continued notwithstanding that functions, powers, and duties of any officer, office, department or agency a party thereto, may be assigned or transferred by or under this Charter to another officer, office, department or agency, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.

**SECTION 106. Seal.**

The official seal of the City at the time this Charter takes effect shall continue to be the official seal of the City for its acts and business unless and until changed by ordinance of the city council.

**SECTION 107. Severability.**

If any article, sections, sentence, clause or portion of this Charter is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and severable and such holding shall not affect the validity of the remaining portions of this Charter.

**SECTION 108. Effective Date of Charter.**

This Charter shall take effect upon its approval and ratification by the qualified voters of the City and, if approved, after filing and acceptance by the Secretary of State, in accordance with State general law.

**SECTION 109. Amendment.**

Any proposal for the amendment, revision, or repeal of this Charter or any portion thereof may be proposed by an affirmative vote of at least four (4) members of the city council, or by initiative by the People of the City of Carson. No such proposal shall be effective until approved by a majority vote of the voters voting at a statewide general election, for proposals by the city council, or at a statewide general, statewide primary, or regularly scheduled general municipal election, for proposals by initiative, and filed with the Secretary of State, in accordance with State general law.

## **ARTICLE II – POWERS OF THE CITY**

### **SECTION 200. Powers.**

The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California and to avoid enactments of the State of California contrary thereto. The City shall also have the power to exercise, or act pursuant to any and all rights, powers, privileges or procedures, heretofore, or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise, or act pursuant to, under the Constitution of the State of California. The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions. This Charter shall be liberally construed to vest the City with all legal authority and powers necessary to protect the health, safety, and general welfare of all of the citizens of the City.

### **SECTION 201. Procedures.**

The City shall have the power to and may act pursuant to any procedure established by any law of the State, unless a different procedure is required by this Charter.

### **SECTION 202. Form of Government.**

The municipal government established by this Charter shall continue to be the form of government known as the "Council-Manager" form of government so that the city council shall establish the policies of the City, and the City Manager shall administer the government of the City in accordance with such policies.

**SECTION 203. Intergovernmental Relations.**

The City may exercise any of its authority and may perform any of its powers jointly, or in cooperation with, one or more other cities, counties, states, the United States, or any political subdivisions, civil divisions, or agencies thereof, or other governmental entity by entering into joint powers agreements with such entities or in such other manner as authorized by law.

**SECTION 204. Establishment of Specialized Agencies or Authorities.**

The City shall have the power to establish a housing authority, economic development authority, special districts and commissions, boards, or other agencies or authorities of specialized expertise or application to the full extent as may be permitted by state or federal law, in order to carry out the business of the City or otherwise advance the health, safety, or general welfare of its citizens. Any such entity specified herein, including the Mobile Home Park Rental Review Board, Personnel Appeals Board, Planning Commission, and Relocation Appeals Board, may only be disbanded by amendment to this Charter. All specialized agencies created by the City and in existence on the effective date of this Charter shall continue to perform their duties and operate pursuant to their existing legal authority and, in addition, any authority granted hereunder, unless and until city council may otherwise provide by ordinance or resolution.

**SECTION 205. [TBD]**

**SECTION 206. [TBD]**

## **SECTION 207. Economic Development.**

A. Economic Development Opportunities. The City is centrally located at the junction of major freeway corridors with excellent access to Downtown Los Angeles, the West Los Angeles economic hub and the Pacific Rim hub of the Los Angeles/Long Beach port system, one of the largest trading centers in the world, with the highest volume in the United States. Carson was originally seen as an excellent location for large scale industrial projects like Shell and Tesoro Refineries and major warehousing and logistics operations. Prior to incorporation and in the post second world war housing boom, the City became a site for county landfills and disfavored uses. The extensive landfill areas have left major sites needing cleanup that are also available for economic development. Accordingly, the city's location, major industries and employers, and significant undeveloped properties give it special development opportunities.

B. Constraints. The City has found that its previous redevelopment program, which was dissolved pursuant to state law, was essential to redeveloping its many vacant, contaminated, and blighted parcels scarred by decades of oil and gas production, refuse dumps and landfills, auto dismantling centers, and other similar uses. Other constraints have included: (i) being a low property tax city with its property taxes reallocated to other agencies; (ii) critical undeveloped infrastructure; (iii) the existence of wells and other oil and gas pipelines, tanks and facilities, both active and inactive, which must be removed for development or incorporated into any development plan; and (iv) facility-related contamination requiring significant remediation costs under current environmental and health and safety standards. It is the objective of the City of Carson to design and implement a local program, within the authority under this Charter, to accomplish the City's economic develop purposes.

C. Economic Development Powers. It is a significant goal of adopting this Charter to allow the City to pursue economic development to the maximum degree permitted by the California Constitution. To this end for purposes of eliminating blight, encouraging

private investment, providing public infrastructure, and causing the development and redevelopment of property, the City shall have the powers enumerated herein:

1. Receipt of Financial Assistance. City may seek or accept financial or any other assistance from public or private sources, including from the state or federal government, for the City's activities, powers, and duties hereunder
2. Acquisition of Property. City may purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property, any interest in property, and any improvements on it, including repurchase of developed property previously owned by the city.
3. Eminent Domain. City may acquire real property by eminent domain, and may acquire every estate, interest, privilege, easement, franchise and rights in land, including encumbrances by way of mortgage or indebtedness, or any interest arising from covenants and conditions. Any such proceeding shall be undertaken only in accordance with the eminent domain law (Code of Civil Procedure § 1230.010 et seq.) and all procedures therein to protect property owner rights. [No property currently zoned and used for residential purposes may be acquired by eminent domain for the purposes provided in this chapter.]
4. Management of Property. City may rent, maintain, manage, operate, repair and clear real property and may insure or provide for the insurance of any operations of the city against risks or hazards.
5. CC&Rs. City may provide for the retention of controls and the establishment of any restrictions or covenants running with the land for such periods of time and under such conditions as shall be necessary to effectuate the purposes hereof.
6. Non-Discrimination. City shall include in all deeds, leases or contracts for sale, lease, sublease or transfer of land, non-discrimination clauses.
7. Issuance of Bonds. City may issue its bonds or other financial instruments permitted by law and expend the proceeds from their sale to carry out the

purposes hereof. The bonds and obligations issued by the city also may be purchased, invested in, or used for security.

8. Site development. City may clear or move buildings, structures or improvements from real property; may grade any site; and may develop as a building site any property owned by it. It may cause or make provisions with other agencies for the installation of streets, utilities, parks and other public improvements.
9. Property Disposition. City may sell, lease, exchange, subdivide, transfer, assign, pledge, encumber or otherwise dispose of any real or personal property or any interest in property acquired by it. The City may use ground leases or the sale of publicly owned land, including at less than fair market value as provided herein, or development agreements in accordance with law, lease-lease back financing, infrastructure financing, design build contracts, and/or other creative mechanisms to fulfill the purposes hereof.
10. Property Remediation. City may investigate and evaluate the environmental condition of property, prepare remediation plans and obtain approval thereof from regulatory agencies, and undertake remediation in accordance with such plans.
11. Relocation. City may provide (i) relocation assistance to persons displaced by governmental action, and (ii) aid and provide assistance to property owners for property maintenance in connection with rehabilitation loans and grants.
12. Cooperation. City shall cooperate with other public agencies in the formulating and administration of its economic development assistance programs. The planning commissions and the legislative bodies of the city and the cooperating public agencies may hold joint hearings and meetings regarding the projects assisted hereunder.
13. Special Districts. The financing of both the development of infrastructure and services through community service districts, landscape and lighting districts, assessment districts, school facility improvement bonds, infrastructure finance, and similar special district financing mechanisms permitted by law;

14. Tax and Assistance Agreements. The use of tax rebates, tax credits, or similar agreements permitted by law including for sales taxes, transient occupancy taxes, utility taxes or other taxes shared with the generator thereof, and rebates or waivers of franchise fees, business license fees, development impact fees, or other revenue sources, or any other economic development subsidy including land writedowns, may be provided when justified as provided herein. In the event of such agreements, they may only be approved after a public hearing thereon identifying the amount and terms of such assistance and the justification for such assistance.
15. Regulatory Relief. The modification or suspension of zoning and other land use restrictions affecting the feasibility of development, density bonuses, expedited processing of entitlements, design-build contracts, environmental sustainability, special development zones, the establishment of clear and consistent regulatory regimes, creating procedures for dispute resolution, clear definition of scope of environmental review and use of scoping processes, and other similar methods, can be used to encourage economic development.

D. Economic Development Authority. In exercising the powers granted pursuant hereto, the City Council may by ordinance exercise the above authorities, or create a subordinate economic development authority, and/or enable the Reclamation Authority to so act to incentivize private investment by the grant or loan of public resources, the reduction of regulatory burdens, asset monetization, building fee producing infrastructure, alternative procurement strategies, concession agreements, leasing arrangements, securitization of obligations, or other measures where the risks to the private entity can be reduced to a level whereby the development entity and investors can earn a commercially reasonable return on investment and will accordingly proceed with the economic development project. Any program to undertake the above shall establish that any public assistance or subsidy provided to a project by the City have a sufficient public purpose and must include a comprehensive report identifying the nature of the project, the necessity of the assistance, the amount of the assistance, the public benefits of the project, the return on the project, and the regulations and

conditions governing the project. The project would only be approved after a duly noticed public hearing and compliance with CEQA (Public Resources Code 2100 et seq.). The City shall adopt a comprehensive ordinance with measure to carry the foregoing.

### **SECTION 208. General Land Use Authority.**

A. Goals and Objectives. The City of Carson while taking advantage of its location and economic opportunities, as described in Section 207, prides itself in providing exceptional services to the residents and business community it serves. It is the goal of the City to be a balanced community, providing employment opportunities, retail services, recreational activities, and quality neighborhoods, and to serve the needs of those who reside, work and recreate in the City. All industrial, commercial, and residential development shall be undertaken with a high degree of environmental quality and an accounting of social and environmental justice and sustainability impacts. In promoting balance and livability, it is the goal of the City that residents be able to reside, work, purchase goods and services, attend school, recreate, and otherwise enjoy the civil society, natural environment and other amenities of Carson.

B. Land Use Powers. Except as otherwise provided by ordinance of the city council, the City shall have the full power to enact regulatory land use measures, including but not limited to the following:

1. Creation of a general plan for the long-term growth and orderly development of the City consistent with the foregoing policies.
2. Creation of zoning ordinances with specific land use regulations which will carry out the city's land use policies.
3. Enact specific plans, overlay control districts or other similar matters for the regulation and development of land.

4. Provide adequate enforcement mechanisms to abate public nuisances which depreciate property values.
5. Make determinations pursuant to the California Environmental Quality Act to protect the quality of the environment.
6. Approve the subdivision or re-subdivision of property.
7. Establish a site design and review process for development applications to assure high development quality and compatibility with adjacent uses.
8. Establish procedures to approve conditional uses, variances and other land use entitlements.
9. Establish regulations which are sensitive to the industrial history of the City and allow the City to remediate, redevelop, and address such uses for the benefit of public health and general welfare and to increase property values within the City.
10. Establish procedures for preserving and protecting mobilehome parks through specific plan or special zoning districts or regulations as an essential component of the city's affordable housing stock.
11. Establish procedures that encourage the development of affordable housing sufficient to meet community needs and improve housing quality standards through zoning regulations, and authorize the Housing Authority to develop varied housing assistance programs to address housing affordability issues including preserving mobilehome parks.
12. Establish measures to mitigate for the impacts of development on adjacent property and the City generally through land use regulations, requirements that the developer provide appropriate infrastructure improvements, imposition of impact mitigation fees, assessments for construction of infrastructure improvements, and similar measures.

13. Condition development to provide for its maintenance in a first class condition and the protection of public safety and welfare, and through recorded covenant agreements, assessments, and other measures, assure that such development is adequately maintained and pays its fair share of the costs resulting from the development.

### **SECTION 209. Oil and Gas Regulation.**

The City authorizes restricted oil and gas operations in a manner that will protect health, safety, environmental quality and the general welfare of the City. The City may adopt and amend from time to time an oil and gas code providing for the reasonable regulation of oil and gas facilities, equipment, and operations, including but not limited to: exploration, production, storage, processing, transportation, and disposal operations; plugging, abandonment and reabandonment of wells, operations and equipment accessory thereto; and establishing measures for protection of health and safety and providing for the development and redevelopment of oil and gas sites.

All oil field plans should include a long term plan with adequate measures for the removal of oil field facilities, the end of production, and the restoration of all sites so they are attractive and free from hazards.

### **SECTION 210. Cannabis Regulation.**

The City of Carson may regulate cannabis activities in a manner that is necessary to protect the public health, safety, and welfare. Any outdoor personal cannabis cultivation is prohibited. Any commercial cannabis operations which involve the retail sale or delivery of cannabis or cannabis products are prohibited. The City may authorized up to four (4) commercial cannabis operation centers, which may be comprised of one to one of each type of the activities of cultivation, manufacture, testing, or distributor. Any change to the type of authorized commercial cannabis activities of cultivation,

manufacturer, testing, or distributor and/or any increase to the number of authorized commercial cannabis operation centers from that currently permitted in the City as of the effective date of this Charter, may be proposed by an affirmative vote of at least four (4) members of the city council, or by initiative by the People of the City of Carson. No such proposal shall be effective until approved by a majority vote of the voters in a general municipal election.

## **ARTICLE III – CITY COUNCIL**

### **SECTION 300. Powers Vested in the City Council.**

All powers of the City shall be vested in the city council except as otherwise provided in this Charter.

### **SECTION 301. Elective Officers; Indemnification.**

The elective officers of the City shall consist of five city council members, one of whom shall be the mayor, a city clerk, and a city treasurer. The members of the city council shall be elected from the city at large at the time and in the manner provided in this Charter. All elective officers shall serve for a term of four years and until their respective successors are elected and qualified.

The elective officers in office at the time this Charter takes effect shall continue in office until the termination of their current terms and succeeding terms shall be likewise for four (4) years. The term of each elective officer shall commence no later than five days from the certification of the election results by the city council. Ties in voting among candidates for officer shall be settled by lot.

Elective officers shall have the same indemnification rights as employees as specified in Section 505.

### **SECTION 302. Mayor; Mayor Pro Tempore.**

The Mayor shall be elected from the city at large at the time and in the manner provided in this Charter. The mayor shall serve as a member of the city council for all purposes and shall only have the rights, powers and duties of a member of the city council, unless otherwise provided for in this Charter or by ordinance. Unless otherwise expressly provided to the contrary, any provision in this Charter which relates to the city council or to members of the city council shall be interpreted to include the mayor as a member of the city council.

The mayor shall be the head of the City for all ceremonial purposes. The mayor shall be the presiding officer during meetings with the power to determine procedural order, and shall serve as the primary, but not exclusive, spokesperson of the City. The mayor shall assure that city council meetings are conducted in an orderly and fair manner in accordance with law. The mayor shall sign written contracts and conveyances made or entered into by the City. The mayor shall not have special voting rights or veto power over any actions of the city council. The mayor shall perform such duties consistent with their office as may be prescribed by this Charter, or as determined by the city council and not inconsistent herewith.

The mayor pro tempore shall perform the duties of the mayor during any period of the mayor's absence or disability. The mayor pro tempore shall be selected annually in the month of January by a majority vote of the members of the city council, and shall serve for a term of one (1) year on a rotation basis.

### **SECTION 303. Eligibility.**

No person shall be eligible to hold an elective office unless he or she is, at the time of issuance of nomination papers for the elective office, a qualified elector of the City, or of territory legally annexed thereto, and shall have been domiciled in the City for at least thirty (30) days immediately preceding their nomination.

### **SECTION 304. Compensation and Expenses.**

All members of the city council shall receive as compensation for their services a monthly salary which is the lesser of either the amount established by city council ordinance or the amount established in accordance with, and limited by, the provisions of law applicable to the salaries of city council members in general law cities as set forth in Section 36516 of the Government Code of the State of California or any successor provision thereto. The City shall not provide any additional compensation to members of

the city council for attendance at other meetings of City or City-affiliated commissions, committees, subcommittees, and boards of directors.

All of the members of the city council, including the mayor, shall continue to be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties as stated in, and limited by, the provisions of law applicable to the reimbursement for expenses city council members in general law cities as set forth in Section 36514.5, 53232.2 and 53232.3 of the Government Code of the State of California or any successor provision thereto. The city manager shall be responsible for collecting any receipts from the members of the city council for reimbursable expenses within sixty days of the incurrence of any eligible expense, and shall submit quarterly reports to the city council regarding said expenses.

#### **SECTION 305. Limitation of Terms.**

No person shall serve more than three lifetime terms of office as a member of the city council. For the purpose of this section, a "term" shall mean any period of service on the city council that exceeds two years.

#### **SECTION 306. Vacancies.**

A. Vacancy. If a member of the city council (i) is absent from all regular meetings of the city council for a period of sixty (60) days consecutively from and after the last regular city council meeting attended by such member, unless such absence is by permission or excused by the city council expressed in its official minutes; (ii) ceases to be domiciled in the City or ceases to be an elector of the City; or (iii) is convicted of any felony or criminal offense involving a violation of his or her official duties, or a crime involving moral turpitude, or (iv) formally resigns in writing, the office shall become vacant. The city council by resolution shall declare the existence of any such vacancy, and the office shall be deemed vacant from the date of such declaration.

B. Filling Vacancy. A vacancy on the city council, from whatever cause, that occurs more than ninety (90) days before or after a general municipal election (the "Election Window") may be filled by appointment by a majority of the remaining members of the city council, or by the calling of a special election if no appointment is made within sixty (60) days of the commencement of the vacancy. No person shall be eligible to fill a vacancy unless they, at the time of appointment or issuance of nomination papers for the special election, are a qualified elector of the City, have been domiciled in the City for at least one year immediately preceding their appointment or election, and have not reached the term limit for city councilmembers pursuant to Section 305 prior to their appointment or election to fill the vacancy. Any person appointed or elected to fill a vacancy in the city council shall serve the remaining unexpired term of the office. In the event it shall fail to fill a vacancy by appointment within sixty (60) days after such office shall become vacant, the city council shall cause an election to be held [forthwith] to fill such vacancy. The times and procedures for the calling of any special election to fill a city council vacancy may be established by ordinance consistent with state law.

C. Filling Vacancy During Election Window. If a vacancy on the city council occurs for any reason during the Election Window, the person who received the highest number of votes in said election, but was not elected, shall be appointed by the city council to fill that vacancy. The person appointed pursuant to this provision shall serve the remaining unexpired term of the office. Persons eligible for appointment shall meet the criteria of subsection (B) above.

D. Interim Appointment. If the city council calls a special election to fill a vacancy, the city council may make an interim appointment to fill the vacancy until the date of the special election. Persons eligible for appointment shall meet the criteria of subsection (B) above.

**SECTION 307. Interference in Administrative Service.**

Except as otherwise provided in this Charter, neither the city council nor any of its members shall interfere with the execution by the city manager of his or her powers and duties, or order, directly or indirectly, the appointment by the city manager or by any of the department heads in the administrative service of the City, of any person to an office or employment, or his or her removal therefrom. Except for the purpose of inquiry, the city council and its members shall deal with the administrative service under the city manager solely through the city manager, and neither the city council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

**SECTION 308. Meetings.**

A. Compliance with State Law. Unless otherwise expressly provided in this Charter, all meetings of the city council shall be called and conducted in accordance with state law, as specified in California Government Code Sections 54950, et seq. (the "Brown Act").

B. Regular Meetings. Unless otherwise provided by ordinance, or resolution of the city council, the city council shall hold regular meetings twice per month, unless otherwise determined. City council meetings shall be held at such times as it shall fix by ordinance or resolution and city council may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment, and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday or municipal election, such regular meeting shall be held on the next business day.

C. Notice and Posting of Agenda. The notice and agenda shall be posted at least seventy two (72) hours before the regular meeting in at least three (3) locations

designated by ordinance or resolution of the City Council, (the "Designated Locations"), each freely accessible to the public twenty four (24) hours a day during the seventy two (72) hour period prior to the meeting, and where the notice and agenda is not likely to be removed or obscured by other posted material. Specifically, the notice and agenda shall also be posted at city hall and on the city's official website. The city clerk may also use additional technological means to disseminate information to the public.

D. Place of Meetings. Unless otherwise provided by ordinance or resolution of the city council, all meetings shall be held in the council chambers as such location is designated by ordinance or resolution of the city council, or in such place to which any such meeting may be adjourned, and, except for any closed sessions permitted under state law, shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the mayor, or, if the mayor should fail to act, by three members of the city council.

### **SECTION 309. Special Meetings.**

Special meetings may be called at any time in writing by the mayor, or by a majority of the city council members, by delivering written notice to each council member and the local media, in accordance with Government Code Section 54956. The notice for a special meeting shall specify the subject(s) to be considered in open and/or closed session, and only the matters specified in the notice may be discussed at special meetings, in accordance with Government Code Sections 54954.5 and 54956 . The notice for a special meeting shall be conspicuously posted at least twenty four hours prior to the special meeting at the Designated Locations and in the manner for posting of the regular agendas set forth in Section 308.

**SECTION 310. Quorum; Proceedings.**

Three members of the city council shall constitute a quorum to do business, but a lesser number may adjourn from time to time where a quorum does not exist. In the event none of the members of the city council are present at any regular meeting or adjourned regular meeting, the city clerk may declare the meeting adjourned to a stated day, hour, and place. Notice of a meeting adjourned by less than a quorum or by the clerk may be given by delivering written notice to each council member and the local media or waived in accordance with Government Code section 54956. Notice of an adjourned meeting need not specify the matters to be acted upon.

**SECTION 311. Oaths; Subpoenas.**

Each member of the city council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the city council. The city council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas, when authorized by resolution of the city council, may be issued by the mayor in the name of the City and shall be attested by the city clerk. Disobedience of such subpoenas, or the refusal to testify upon other than constitutional grounds or statutory privileges, shall constitute a misdemeanor.

**SECTION 312. Citizen Participation.**

No person shall be denied the right, personally or through counsel, to address the city council at any regular meeting, adjourned regular meeting or special meeting regarding any item within its subject matter jurisdiction and if such item is on the agenda, prior to such item being considered by the city council,. City council may, by ordinance or resolution, establish time limitations for speaking and impose other reasonable regulations on the exercise of such right in order to preserve the orderly nature of its

proceedings. The presiding officer may modify regular rules of procedure in a nondiscriminatory fashion where large audiences are present, and may make necessary orders to prevent disorderly conduct when the meeting is being disrupted.

### **SECTION 313. Adoption of Ordinances and Resolutions.**

A. Ordinances. With the sole exception of ordinances which take effect upon adoption as described below, all ordinances shall be first introduced by the city council, and shall have a second reading no sooner than five (5) days after the date of their introduction and prior to their adoption. All ordinances shall be introduced, deliberated, and passed upon at a regular or adjourned regular meeting of the city council. At the time of its introduction, an ordinance shall become a part of the proceedings of such meeting, and a copy of the introduced ordinance shall be kept in the custody of the city clerk and included in the code of ordinances. A proposed ordinance shall be read by title only unless a council member disagrees that the ordinance can be read by title only and requests a full reading.

B. Alteration and Correction. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except after a second reading at a regular or adjourned regular meeting held not less than five (5) days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

C. Payment of Money. Warrants and orders for the payment of money shall be approved by resolution adopted at any regular, adjourned regular, or special meeting.

D. Three Votes Necessary. Unless a higher vote is required by other provisions of this Charter, or by the laws of the State of California, the affirmative votes of at least three members of the city council shall be required for the enactment of any ordinance, resolution, or the making or approving of any warrant or order for the payment of money, or for entering into any contract where the amount to be paid by the City

exceeds twenty five thousand dollars (\$25,000), or such other amount as city council may establish by ordinance.

E. Execution. All ordinances and resolutions shall be signed by the mayor or in the mayor's absence, the mayor pro tempore, and attested by the city clerk.

F. Urgency. Any ordinance declared by the city council to be necessary as an urgency measure necessary for the immediate preservation of public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least four (4) affirmative votes of the city council. Any ordinance that carries an urgency clause shall be effective for no more than twelve (12) months from the date of adoption, unless reintroduced and passed in the normal manner by the city council at a regular or adjourned regular meeting.

#### **SECTION 314. Ordinances; Publication.**

The city clerk shall cause each ordinance or a summary of each ordinance to be published at least once in a newspaper of general circulation in the City, and posted on the City's official website within fifteen days after its adoption. If there is no newspaper of general circulation in the City, the clerk shall cause it to be posted in the manner provided in Section 308, or published in a newspaper of general circulation, printed and published in the County and circulated in the City. The city clerk may also use additional technological means available to disseminate information to the public.

#### **SECTION 315. Codification of Ordinances.**

A. All ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, shall be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an

ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the city clerk prior to the adoption thereof. Such a code may contain provisions of general application to all other ordinances including definitions, statutory construction rules, fines and penalties and similar provisions of general application. Amendments to the code shall be enacted in the same manner as ordinances.

B. Adoption by Reference. Detailed regulations pertaining to the construction of buildings, plumbing and wiring, mechanical devices, abatement of dangerous buildings, or similar matters consisting of part of a uniform code adopted by the County of Los Angeles, or generally adopted on a state-wide or region-wide basis, when arranged as a comprehensive code, may likewise be adopted by reference to the full extent permitted by the general laws of the State of California, and pursuant to procedures established therein. Maps, charts and diagrams also may be adopted by reference in the same manner.

### **SECTION 316. Ordinances; When Effective.**

No ordinance shall become effective until thirty days from and after the date of its adoption, except the following, which shall take effect immediately upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An assessment district ordinance adopted under some special law or procedural ordinance relating thereto.
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying a tax upon property.
- (d) An urgency ordinance adopted in the manner provided for in this article.
- (e) Any other such ordinance authorized by state law.

**SECTION 317. Ordinances; Violation; Penalty.**

City council may designate the violation of any ordinance of the City to constitute a misdemeanor or an infraction. Unless specifically designated as an infraction, a violation of any ordinance of the City shall constitute a misdemeanor and may be prosecuted in the name of the people of the State of California or may be redressed by civil action. The maximum fine or penalty for any violation of a City ordinance, whether a misdemeanor or an infraction, shall be as established by ordinance or resolution of the city council. The city council may issue subpoenas and report noncompliance thereof to the judge of the superior court of the county, in order to enforce any local law or ordinance.

**SECTION 318. Publishing of Legal Notices.**

The city clerk shall cause all legal notices to be published in a newspaper of general circulation within the City, or posted in the Designated Locations and on the City's official website as designated in Section 308. The city clerk may also utilize other technological means available for dissemination of information to the public.

No defect or irregularity in proceedings taken under this section, or failure to designate an official newspaper, shall invalidate any publication where the same is otherwise in conformity with this Charter, or ordinance, or other law.

**SECTION 319. Contracts; Execution.**

A. Contracts and Manner of Execution. The City shall not be bound by any contract, except as hereinafter provided, unless it is in writing, approved by the city council and signed on behalf of the City by the mayor and city clerk or by such other officer or officers as shall be designated by the city council. Any of said officers shall

sign a contract on behalf of the City when directed to do so by ordinance, resolution, or other order of the city council.

B. City Manager Authority to Contract. By ordinance or resolution the city council may authorize the city manager to bind the City, with or without a written contract, including by purchase order, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the city council, and shall by ordinance impose a monetary limit upon such authority.

C. Surplus Property. The city council shall by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the City service or not fit for the purpose for which intended, and for the conveyance of title thereto.

The city council may by ordinance or resolution passed by at least four (4) affirmative votes, provide for the sale of real property, valued at more than two million, five hundred thousand dollars (\$2,500,000), that is not needed in the City service or not fit for the purpose for which intended, and for the conveyance of title thereto.

D. Public Utility. Contracts for the sale of the products, commodities or services of any department or public utility owned, controlled or operated by the City may be made by the manager of such utility or by the city manager upon forms approved by the city manager and at rates fixed by the city council.

E. No Application to Employees. The provisions of this section shall not apply to services rendered by any person in the employ of the City.

## ARTICLE IV – CITY MANAGER AND CITY ATTORNEY

### SECTION 400. City Manager.

There shall be a city manager who shall be the chief administrative officer of the City. City council shall appoint, by an affirmative vote of at least three of its members, the person that it believes to be best qualified on the basis of his or her executive and administrative qualifications, with special reference to experience in, and knowledge of, accepted practice in respect to the duties of the office. The city manager shall serve at the pleasure of the city council.

### SECTION 401. Eligibility.

No person shall be eligible to receive appointment as city manager while serving as a member of the city council nor within six years after he or she has ceased to be a member of the city council.

### SECTION 402. Compensation and Bond.

A. City Manager At Will. The city council shall be authorized to enter into a contract of employment with the city manager. The city manager shall have no vested or procedural rights in connection with his or her employment as city manager.

B. Contract. The city manager shall be paid a salary with benefits commensurate with their responsibilities as chief administrative officer of the City, which salary shall be established by resolution of the city council, or by contract with the city manager. Any severance clause shall not include benefits and the term of severance shall not be longer than the unexpired term of the contract per Government Code Section \_\_\_\_\_.

C. Bond. The city manager shall furnish a corporate surety bond conditioned upon the faithful performance of their duties in such form and in such amount as may be determined by the city council. Any premium for such bond shall be a proper charge against the City.

### **SECTION 403. City Manager Powers and Duties.**

The city manager shall be the administrative head of the government of the City under the direction and control of the city council. The city manager shall be responsible for the efficient administration of all the affairs of the City which are under the city manager's control. In addition to his or her general powers as administrative head, and not as a limitation thereon, the city manager shall have the powers and duties as set forth by ordinance of the city council, including but not limited to the following:

- A. Ordinances. To recommend to the city council for adoption such measures and ordinances as deemed appropriate, and to enforce all laws and ordinances of the city and see that all franchises, contracts, permits and privileges granted by the city are faithfully observed;
- B. Management Authority. To maintain management control, and provide direction to all department heads, subordinate officers and employees of the city. To effect such administrative organization of offices, positions or units in the interest of efficient, effective and economical conduct of the city's business with concurrence of the city council.
- C. Power of Appointment and Removal. As appointing authority, to appoint, remove, promote and demote all city officers and employees, except for elected officials and the city attorney, subject to the following, (i) all other applicable personnel ordinances, rules and regulations of the City; (ii) appeal rules in the personnel system, if any; and (iii) all other ordinances of the City.

- D. Council Meetings. To participate in meetings of the city council unless excused or as otherwise directed by the mayor or city council.
- E. Financial Reports. Oversee the financial affairs of the city and to keep the city council at all times advised as to the financial condition and needs of the city;
- F. Budget. To timely prepare and submit the proposed balanced annual budget to the city council for consideration and approval, and to manage the city's finances in accordance with the budget;
- G. Purchasing Agent. To purchase all supplies for all the departments or divisions of the city in accordance with the budget and the purchasing ordinance as approved by the city council.
- H. Investigations and Complaints. To make investigations into the affairs of the city and any department or division thereof, and any contract or the proper performance of any obligations of the city; to investigate all complaints in relation to matters concerning the administration of the city government and the service maintained by public utilities in the city; to create processes to receive complaints from citizens, vendors, and other aggrieved persons; to report on any investigative activities and make recommendations to the city council. At the city council's discretion, the council may decide to conduct/oversee specific resident, contractor and/or other non-employee complaints and investigations.
- I. Public Buildings. To exercise general supervision over all public buildings, public parks and all other public property which are under the control and jurisdiction of the city council;
- J. Other Duties. To perform such other duties or exercise such other powers as may be delegated to the city manager from time to time by ordinance, resolution or other official action of the city council.

**SECTION 404. Removal.**

Unless for cause, the city manager shall not be removed from office by action taken by the city council during the period of ninety days following any municipal election at which a member of the city council is elected. At any other time the city manager may be removed only at a regular meeting of the city council and upon the affirmative votes of at least three members of the city council. In removing the city manager, the city council shall have absolute discretion, and its actions shall be final. The city manager is an at will employee and shall not have any procedural rights entitling him or her to a hearing or other notice prior to termination, except as may be provided by ordinance or contract.

**SECTION 405. Acting City Manager.**

When the city manager will be away from the office for more than one day (temporary illness, disability, scheduled absence, etc.), the city council shall be so notified and the assistant city manager or other departmental director, as the city manager may designate in writing filed with the city clerk, shall be designated and delegated "acting" city manager authority. If the city manager fails to designate an "acting city manager," the acting position shall be filled in this order: assistant city manager, then finance director, unless the city council designates in writing a qualified city administrative officer to exercise the powers and perform the duties of manager during the temporary absence or disability.

**SECTION 406. City Attorney.**

There shall be a city attorney, who shall be appointed by and serve at the pleasure of the city council. An affirmative vote of three (3) members of the city council shall be required to appoint or remove the city attorney, which may only take place at a regular, adjourned regular, or special meeting of the city council. To become and remain eligible

for city attorney the person appointed shall be an attorney-at-law duly licensed as such under the laws of the State of California, and having been a municipal law attorney for at least five (5) years.

**SECTION 407. City Attorney, Powers and Duties.**

The city council is authorized to enter into a contract with the city attorney. The city attorney shall have no vested or procedural rights in connection with their service as city attorney. The city attorney shall have power and be required to:

- (a) Represent and advise the city council and all city officers in all matters of law pertaining to their offices.
- (b) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which any such officer or employee is concerned or is a party for any act arising out of his employment or by reason of his or her official capacity.
- (c) Attend all meetings of the city council and give advice or opinions in writing whenever requested to do so by the city council or by any of the advisory boards, committees, commissions or officers of the City.
- (d) Approve the form of contracts made by and bonds given to the City, and all deeds or covenants recorded for or on behalf of the City.
- (e) Approve any and all proposed ordinances and resolutions for the City and amendments thereto.
- (f) Surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

- (g) Prosecute on behalf of the people of the City any or all criminal cases arising from violation of city ordinances, and such State misdemeanors as the City has the power to prosecute.
- (h) Recommend and oversee the hiring and supervise the work of any and all other attorneys employed by the City to perform legal work on any litigation or other matter, or to otherwise assist the city attorney.
- (i) To otherwise serve as the legal counselor to the City, and to perform other duties consistent with the Charter, as directed by the city council.

## **ARTICLE V – OFFICERS AND EMPLOYEES**

### **SECTION 500. Administrative Departments.**

A. City Manager Administration. The city manager is responsible for the organization, conduct and operation of the several offices and departments of the City consistent with this Charter, and the ordinances of the City as established by the city council. The city manager shall assure the efficient and effective operation of the city departments, shall review their operation, and when needed shall recommend the creation of additional departments, divisions, offices and agencies or their consolidation, alteration or abolition. Each department shall be headed by an officer as department head who shall be appointed and may be suspended or removed by the city manager.

B. Council Approval. Any reorganization or restructuring of a department recommended by city manager must be approved by ordinance or resolution of the city council. The city council, by ordinance or resolution, may assign additional functions or duties to offices, departments or agencies not inconsistent with this Charter. Where the positions are not incompatible, the city council may combine in one person the powers and duties of two or more offices created or authorized by this Charter. The city manager shall recommend and the city council shall provide for the number, titles, qualifications, powers, duties and compensation of all officers and employees.

### **SECTION 501. City Clerk; Powers and Duties.**

There shall be a city clerk who shall be elected from the city at large. The city clerk shall have power and shall be required to:

- (a) Attend in person or through authorized representative, all meetings of the city council and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the city council in books that shall bear appropriate titles and be devoted to such purpose.

- (b) Maintain records, in which shall be recorded respectively all ordinances, with the certificate of the clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter; and keep all books properly indexed and open to public inspection when not in actual use. All ordinances shall be properly codified and all copies of the municipal code, written or electronic, shall be current and updated.
- (c) Have the responsibility for records management of official actions of the city council, including contracts, bonds, deeds, and other recorded instruments, and assure appropriate procedures are established and followed to comply with the Public Records Act (Govt. Code § 56250 et. seq.).
- (d) Be the custodian of the seal of the City.
- (e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.
- (f) Be ex-officio assessor, unless the city council implements the provisions of the state laws relative to the assessment of property and the collection of city taxes by county officers, or unless the city council by ordinance provides otherwise.
- (g) Serve as the election official of the City and have charge of all City elections. Serve as the City's agent for service of process.
- (h) Perform such other duties not inconsistent with this Charter as may be required by ordinance or resolution of the city council.

## **SECTION 502. City Treasurer.**

There shall be a city treasurer who shall be elected from the city at large. The city treasurer shall have power and shall be required to:

- A. Assist the finance director, as requested by such office, in carrying out assigned duties. In the event of any disputes between the officials, such matters shall be referred to the city manager.
- B. Receive and safely keep all moneys which shall come into their hands as City Treasurer.
- C. Comply with all provisions of law governing the deposit and securing of public funds, and assure that all funds are deposited in appropriate institutions in compliance with state law.
- D. Comply with all the provisions of the general laws of the State governing the handling of such trust funds as may come into his possession.
- E. Cooperate in the preparation of the independent annual audit in accordance with Government Code Section 41002.
- F. Pay out moneys only on warrants signed by persons designated by law, or ordinance, as the proper persons to sign warrants and as to trust funds which may come into their possession or control by virtue of some law, ordinance or resolution, by warrant or other order, in accordance with the provisions of such law, ordinance or resolution.
- G. Meet with the finance director at regular intervals and at least once each month, submit to the finance director a written report and accounting of all receipts, disbursements and fund balances, a copy of which report shall be filed with the city council.
- H. Assist finance director with the preparation of the annual report of the investment policy in accordance with Govt. Code Section \_\_\_\_\_, assure that all investments are made in accordance with such policy, and make recommendations for improvements in such policies

### **SECTION 503. Compensation.**

The city council shall determine, by ordinance or resolution, the amount and type of compensation to be paid to all city officers, department heads, and employees. The council shall periodically survey comparable cities and set compensation levels so as to be reasonably competitive across similar classes and positions, taking into account the city's fiscal condition. The salaries of the city clerk and city treasurer shall be maintained at a range that is at least 10% higher than the range assigned to their highest paid subordinate or manager. The city clerk and city treasurer shall receive an additional premium in the amount of 5% for the acquisition and retention of the designation of "Certified California Municipal Clerk" or "Certified California Municipal Treasurer".

### **SECTION 504. Department Heads.**

Each department head shall have the authority to administer their department, to appoint a deputy or deputies, to oversee the employees in their department, and manage the department under the direction of the city manager and in accordance with the ordinances, resolutions and policies of the city council. Each department head and their deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to their department.

### **SECTION 505. Indemnification of Officers and Employees.**

Upon request by any official, officer or employee, or former official, officer or employee, including elected or appointed officials or members of any board or commission of the City named in any claim or action against them for an injury arising out of an act or omission occurring within the scope of their employment or service with the City, made in writing not more than thirty (30) days after the employee or officer became aware of the action and not less than thirty (30) days before the day of trial, and so long as the

employee or officer (i) was acting in the course and scope of employment, (ii) was not acting with fraud, corruption or malice, and (iii) cooperates reasonably and in good faith in the defense of the claim or action, the City shall defend and indemnify the employee or officer by paying the cost of defense and any judgment based thereon or any compromise or settlement of the claim or action to which the City has agreed. Where the City conducts the defense of the claim or action, or will pay therefor, it shall do so pursuant to an agreement with the employee or officer, reserving the City's rights not to pay the judgment, compromise, or settlement until it is established the injury arose out of act or omission occurring within the scope of his or her employment as a City employee, the City shall be required to pay for the defense or the judgment, compromise, or settlement only if it is established the injury arose out of an act or omission occurring within the scope of the reservation of rights agreement. The City may indemnify any employee or officer for any part of a claim or judgment that is for punitive or exemplary damages only upon an affirmative vote to do so by at least four (4) members of the city council. The city council may, by ordinance or resolution, provide for equitable relief from the time limitations stated herein upon the making of a showing of just cause.

## **ARTICLE VI – APPOINTIVE BOARDS, COMMITTEES AND COMMISSIONS**

### **SECTION 600. In General.**

To assist the city council in the governance of the City, there shall be a mobile home rental review board, personnel appeals board, relocation appeals board, planning commission, and such other boards, committees or commissions as provided in this Charter or as the city council may establish by ordinance or resolution. The city council shall set the purposes and size of such boards, committees and commissions and may grant to them such powers and duties as it deems appropriate and are consistent with the provisions of this Charter.

### **SECTION 601. Appropriations.**

The city council shall include in its annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such advisory boards, committees and commissions. The city council may, by ordinance or resolution, set reasonable fees and charges for defraying the costs of hearings or other administrative proceedings of the City's appointive boards, committees and commissions.

### **SECTION 602. Appointments; Terms.**

A. Appointments. Unless otherwise provided by ordinance or resolution of the city council, the mayor and each member of the city council (“Appointing Authority”) may appoint one member to a position on each city advisory board, committee or commission, and the remaining membership positions on such board, committee or commission shall be nominated by the mayor and approved by at least three (3) affirmative votes of the city council. Each appointive member shall be a qualified elector of the City, or of territory legally annexed thereto, shall be domiciled in the City for at least one year immediately preceding their appointment, and shall continue to reside in

the City for the duration of his or her tenure, unless otherwise provided by ordinance. The city council, for good cause, may waive the requirement of residency for one year prior to appointment, in individual cases.

B. Available Positions. Notice of the availability of a position for appointment or to fill a vacancy shall be subject to the provisions of the Maddy Act (Govt. Code Sections 54970 – 54974) and posted in the Designated Locations pursuant to Section 308, as well as on the City's official website. The city clerk may also utilize other technological means available to disseminate information to the public. The city council may, by resolution, adopt additional procedures to receive and consider applicants for City advisory boards, committees and commissions.

C. Terms. The members thereof shall serve for a term of two (2) years, unless the city council establishes a different term by ordinance or resolution, and until their respective successors are appointed and qualified. The respective terms of office of all members of the boards, committees and commissions in existence at the time this Charter takes effect shall continue upon the effective date of this Charter.

### **SECTION 603. Meetings, Chairs**

As soon as practicable, following the first day of every calendar year, or such other time as may be designated by resolution of the city council, the members of the each advisory board, committee or commission shall appoint a member to serve as chair and/or as vice-chair(s) of such board, committee or commission. Unless otherwise provided by ordinance or resolution, or in the rules of proceeding promulgated by the applicable advisory board, committee or commission, each advisory board, committee or commission shall hold regular meetings at least once each month, and may hold special meetings as such advisory board, committee or commission may require. All proceedings shall be open to the public, except for such closed sessions as may be authorized by law, and shall be conducted in accordance with open meeting laws of the Brown Act.

Except as may be otherwise provided in this Charter, the city manager shall designate a secretary for the recording of minutes for each of such advisory boards, committees and commissions, who shall keep a record of its proceedings and transactions and shall provide appropriate staff support for such board or commission. Each advisory board, committee or commission may by resolution adopt such other rules and regulations which shall be consistent with this Charter and the rules and policies of the city council.

**SECTION 604. Compensation.**

Unless otherwise provided by ordinance or resolution of the city council, the members of advisory boards, committees and commissions shall serve without compensation for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the city council.

**SECTION 605. Removal; Vacancies.**

Any member of an advisory board, committee or commission shall serve at the pleasure of the city council and may be removed at any time by a vote of a majority of the membership of the city council.

Causes for removal include but are not limited to:

- (a) Excessive absenteeism, to be defined as absence from three consecutive meetings of such board, committee, or commission or for twenty five percent (25%) of the duly scheduled meetings of the board or commission within any fiscal year, unless by permission of such board or commission expressed in its official minutes.
- (b) Upon conviction of any felony or crime involving moral turpitude.

- (c) Upon ceasing to be a qualified elector of the City.
- (d) Upon written resignation by the member.

For the foregoing reasons, or any other, the city council may declare the office of any board, committee, or commission member vacant, and the vacancy shall be effective from the date of the declaration unless otherwise specified in the declaration.

Any vacancies in any board, committee, or commission shall be filled by the Appointing Authority for that position or the mayor and city council. Upon a vacancy occurring leaving an unexpired portion of a member's term, any appointment to fill such vacancy shall be for the unexpired portion of such term. Should a vacancy occur in the office of the Appointing Authority for a particular position, the then presently serving board, committee, or commission member shall continue to serve until the occurrence of (i) the expiration of their term, or (ii) the end of the Appointing Authority's unexpired term of office, whichever is earlier, and the appointment, by the successor Appointing Authority, and qualification of a successor member, or until they are otherwise removed.

#### **SECTION 606. [TBD]**

#### **SECTION 607. Planning Commission; Powers and Duties.**

There shall be a planning commission consisting of no fewer than five members. The director of community development or his or her designated representative, shall attend all planning commission meetings. The planning commission may meet with and receive advice from the city attorney as it or the city attorney may deem necessary. The planning commission shall have all of the following powers and duties, which powers and duties may be modified by ordinance of the city council:

- (a) All duties set out in the State Planning and Zoning Law for a planning agency as same now exists and as same may hereafter be amended.

- (b) After public hearing, recommend to the city council any amendment to the general plan or any part thereof, or any zoning ordinance amendments.
- (c) Exercise authority granted to it by ordinance over subdivisions, use permits, or other matters not inconsistent with this Charter.
- (d) Accomplish all duties and functions as established in Section 208 of this Charter.
- (e) Review the quality and nature of development within the City in accordance with the general plan and make recommendations to the city council to assure development is carried out in accordance with the general plan and the City's planning standards.
- (f) Make recommendations to the city council concerning the annual capital improvement plan and as to the acquisition and disposal of real property in terms of consistence of such with the general plan.
- (g) Perform other duties specified by the city council not inconsistent with this Charter.

## **ARTICLE VII – PERSONNEL SYSTEM**

### **SECTION 700. Personnel System**

City council may by ordinance or resolution establish a system of personnel rules and policies, governing the terms of employment of any or all employees of the City. The Personnel System shall have the following aspects: (i) the city manager shall be the appointing authority pursuant to Section 403(c) of this charter, (ii) personnel rules and policies shall be consistent with Section 701, (iii) conducting collective bargaining and entering contracts with represented employees in accordance with the Meyers Milias Brown Act (Govt. Code Section \_\_\_\_\_), and (iv) disciplinary action shall be appealable to a personnel appeals board as described in Section 705 of this charter.

### **SECTION 701. Personnel Rules and Policies**

The personnel rules and policies may govern, without limitation, the following aspects of the personnel system:

- (a) Classification of employment by employment position between exempt and non-exempt appointments, and determination of "at will" categories of employment positions.
- (b) The preparation, installation, revision and administration of a position classification plan covering all positions in the competitive service.
- (c) The preparation, installation, revision and administration of a plan of compensation corresponding to the position classification plan, providing a rate or range of pay for each class.
- (d) The public announcement of examinations and application for and acceptance of applications for employment and establishing of criteria related thereto.

- (e) The preparation and administration of examinations and the establishment and use of resulting employment lists containing names of persons eligible for appointment.
- (f) The certification and appointment of persons from employment lists, and the making of temporary, emergency, and provisional appointments.
- (g) The establishment of hours of work, attendance and leave regulations, training programs, benefits, conduct guidelines and other conditions of work.
- (h) The evaluation of employees during the probationary period and at periodic intervals.
- (i) The transfer, promotion, demotion, reinstatement, separation, or any other change of status of employees in the competitive service.
- (j) The discipline of employees.
- (k) A system or systems for submission to and review by the city manager, personnel manager or other designated person or persons, of designated types of discipline and personnel decisions, for fact-finding, recommendations, final decision or other designated purposes or effects.

**SECTION 702. Contracts with Employees; State Employees Retirement System.**

(a) Memorandum of Understanding. City may enter into any contracts or collective bargaining agreements with its employees, and shall meet and confer with the duly authorized representative of such employees regarding wages, hours and other terms and conditions of employment to be included in any such agreement. City may by resolution establish conditions for the recognition of employee bargaining groups, but shall retain management rights and necessary authority to administer the city organization.

(b) CalPERS Contract. Plenary authority under this Charter shall be vested in the City and the city council, and by delegation of the city council, to its several officers, agents, and employees, to do all acts and exercise all authority granted, permitted, or required to enable the City to continue as a contracting city under the Public Employees' Retirement System, and shall terminate such contract only by at least four (4) affirmative votes of the city council and in accordance with state law.

### **SECTION 703. Eligibility for Appointed Office.**

No person holding or retaining any elective public office, and no person holding any appointed office whose duties are incompatible with the duties to be discharged for the City, shall be eligible for appointment as city manager, city attorney, or a member of any appointed advisory board, committee or commission. No person shall be eligible for appointment as city manager, city attorney, or a member of any appointed advisory board, committee or commission who is a relative by blood or marriage within the third degree of any one or more members of the city council. The city manager, respective department heads, and all other persons empowered by this Charter or ordinance to appoint any person to any appointed position in the City government shall not appoint any person who is a relative by blood or marriage within the third degree of the person making the appointment.

### **SECTION 704. Illegal Contracts; Financial Interest.**

A. Conflicts of Interest. All officers and employees of the city shall fully comply with all state laws regarding conflicts of interest and incompatible employment, as defined by state law.

B. Conflict of Interest Code. The city shall adopt a code governing conflicts of interest and consistent with state law and officers and employees shall comply with such code. No officer or employee shall participate in the making of any decision in

which they have a material financial interest, whether in owning real property, business, gift, or other disqualifying interest.

C. Prohibited Contracts. No member of the city council, department head or other officer of the City shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the City is a party. No member of any board, committee, or commission shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the City is a party and which comes before the board, committee, or commission of which such person is a member for approval or other official action or which pertains to the department, office or agency of the City with which such board, committee, or commission is connected. Any contract, sale or transaction in which there shall be such an interest, as specified in this section, shall become void at the election of the City when so declared by resolution of the city council.

D. Financial Interest. The general laws of the State of California, including Government Code Sections 87100, 1090, and the implementing regulations shall be used in determining what constitutes a financial interest for the purpose of this section, which general laws may be supplemented or modified by regulations of the city council adopted by ordinance.

E. Forfeit Office. If any member of the city council, department head or other officer of the City, or member of a board or commission shall be financially interested as aforesaid, upon conviction thereof he or she shall forfeit his or her office in addition to any other penalty which may be imposed for such violation of this Charter.

#### **SECTION 705. Personnel Appeals Board.**

The city council may by ordinance establish a personnel appeals board for the review and recommendation of issues arising under the personnel system. The rules and regulations for appointment of members to the personnel appeals board shall be as determined by ordinance of the city council. The personnel appeals board may meet

with and receive advice from the city attorney, as it or the city attorney may deem necessary. The personnel appeals board shall have the following powers and duties, which powers and duties may be modified by ordinance of the city council:

- (a) Conduct hearings in accordance with personnel rules and policies adopted by the city council, and make findings and recommendations thereon.
- (b) Make recommendations to the city council on amendments to the personnel rules and policies.
- (d) Conduct investigations regarding hearings pending before it.
- (e) Have the power to compel the attendance of witnesses and the production of documents by way of subpoena, and to examine witnesses appearing before it.
- (f) Conduct hearings on protests, grievances, or questions arising under the personnel system before the personnel appeals board. Any person aggrieved by any action of the personnel appeals board may appeal such action to the city council, according to procedures which shall be established by ordinance. The decision of the city council in any such appeal shall be final.
- (g) Perform other duties specified by the city council not inconsistent with this Charter.

## **ARTICLE VIII – ELECTIONS**

### **SECTION 800. General Municipal Elections.**

General municipal elections for the election of city council members and other elected officials, and for such other purposes as the city council may prescribe shall be held in the City on the first Tuesday in November in each even numbered year.

### **SECTION 801. 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 802. Procedure for Holding Elections.**

All elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, for the holding of municipal elections, so far as the same are not in conflict with this Charter. The city council may in its discretion determine to conduct mail ballot elections by such procedure as it may prescribe by ordinance.

### **SECTION 803. 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 the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, 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 IX – FISCAL ADMINISTRATION**

### **SECTION 900. Fiscal Year.**

The fiscal year of the City government shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

### **SECTION 901. Annual Budget.**

The city council shall establish by ordinance the procedures for the preparation, review, adoption, distribution and administration the annual budget or multi-year budgets. The city council may establish other policies and procedures regarding the annual budget, such as reserve policies and adoption deadlines, by resolution. The city manager shall be responsible for the preparation of the budget in accordance with such policies.

### **SECTION 902. Proposed Budget, Submission to City Council.**

At least sixty days prior to the beginning of each fiscal year, the city manager shall submit to the city council the proposed budget and make copies of same available for inspection by the public in the office of the city clerk, on the City's official website and the Designated Location(s) per Section 308, and may use such other technological means available to disseminate information to the public as the city clerk may determine. After reviewing the proposed budget and making such revisions as it may deem advisable, the city council shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten days prior to said hearing. Copies of the proposed budget shall be available for inspection by the public in the office of the city clerk at least ten days prior to said hearing.

**SECTION 903. Budget, Public Hearing.**

At the time and place specified in the notice, the city council shall hold a public hearing on the proposed budget, at which interested persons shall be given the opportunity to be heard and present evidence. The hearing may be continued from time to time by the city council.

**SECTION 904. Budget; Adoption.**

On or before the first date of the fiscal year, city council shall adopt such budget as it deems appropriate for that fiscal year by resolution. If because of an emergency the city council does not adopt the budget in a timely fashion, one-twelfth of the amount of the total prior fiscal year's budget may be expended each month until the budget is adopted, provided that, if the city manager's estimates project a decrease in revenues from the prior fiscal year, the amount which may be expended in any month shall be reduced by one-twelfth of the total revenue decrease projected. A copy of the approved budget, certified by the city clerk, shall be filed with the director of finance and treasurer and a further copy shall be placed, and shall remain on file, in the office of the city clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

**SECTION 905. Budget; Appropriations.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes stated. All appropriations shall lapse at the end of the fiscal year(s) covered by the budget to the extent that they shall not have been expended or lawfully encumbered.

At any meeting after the adoption of the budget, the city council may by resolution amend or supplement the budget by motion adopted by the affirmative votes of at least three members so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available funds not included in the budget, or to cancel any appropriation not expended or encumbered.

#### **SECTION 906. Municipal Finance and Tax Authority.**

A. Municipal Finance. The city council is specifically authorized to regulate municipal finance and adopt ordinances, resolutions and orders within the municipal affairs of the City to the extent permitted to charter cities under the State Constitution. The City may in its discretion comply with state laws regulating municipal finance or avoid enactments of the State of California contrary to its ordinances.

B. Taxes, Fees and Assessments. City shall have the full power to enact any taxes, assessments, fees, or any other measures for the purpose of raising revenue which charter cities in the State of California may enact.

#### **SECTION 907. Limitation on Tax Authority.**

Notwithstanding the authority in Section 906 to enact taxes, the following limitations shall apply:

(a) General Tax. The City Council shall not impose, extend, or increase any general tax for general government purposes unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

(b) Special Tax. The City Council shall not impose, extend, or increase any special tax for specific purposes unless and until that tax is submitted to the electorate and

approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

(c) Property Tax. The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property as provided by the State Constitution, except for the City with respect to bonded indebtedness for the acquisition or improvement of real property, approved by two-thirds of the votes cast by the voters voting on the proposition or except as may be permitted by the California Constitution with respect to water, stormwater and wastewater facilities, as provided in Section 909.

#### **SECTION 908. Fees and Assessments.**

A. Assessments. In establishing special districts for property assessments, the city shall generally comply with the applicable state law, and with all constitutional requirements, but unless inconsistent with such specific authority in carrying out the provisions of Section 207, the city shall have the authority to create districts for such purposes and establish the procedures therefore unless inconsistent with the State Constitution.

B. Fees. In establishing fees for the provision of services or in connection with a regulatory program, the city shall generally comply with the applicable state law, and with all constitutional requirements.

#### **SECTION 909. Bonded Debt.**

The city shall have full power to incur bonded indebtedness for the purpose of raising revenue to the full extent permissible to charter cities under the State Constitution. No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of two-thirds of those electors voting on such proposition at any election at which the question is submitted to the electors, in

full compliance with the provisions of the State Constitution and of this Charter provided, however that to the extent the State Constitution in the future allows for a lesser requirement than a two-thirds vote of the electors with respect to water, wastewater and storm water or other municipal facilities, the provisions of the State Constitution shall apply. This requirement shall not apply to other forms of municipal finance including taxation, assessments and fees, which may be enacted in accordance with Section 907.

### **SECTION 910. Election for Major Capital Projects.**

The appropriation and/or expenditure of city funds in excess of twenty million dollars by the City or any entity thereof, such as a public financing authority, for the development of public improvements or facilities must be approved by the voters of the City at an election called for such purpose. For purposes of this section, the \$20,000,000 trigger only applies to the City's funding of the project, and not any grant or other non-city funding which does not count towards the limit and does not include financing costs, but would apply if City funds are spent over multiple years to carry out the project. In addition, the foregoing requirements for an election does not apply to:

- (a) The conduct of feasibility studies, design work, or other planning or preconstruction activity, so long as no commitment has been made to construct the public improvements or facility;
- (b) The maintenance, repair, or operation of any public improvement or facility;
- (c) The redesign or modification of any public improvement or facility which has already received voter approval.

**SECTION 911. Enterprise Funds.**

A. Charge Not Exceed Cost. The City may not impose a fee or charge for water or sewer service, hook-ups, permitting, transfer or any other service that exceeds the cost of providing that service.

B. Administrative Fees Only For Administration of Fund. The City may not collect for its own general fund in-lieu taxes, fees or charges from any enterprise fund for administration or any other purposes except for administration of the fund.

C. No Borrowing From Fund. The City may not borrow funds held in reserve in any enterprise fund for its use or the use of any other department or program of the City except in the case of a declared emergency in accordance with state law.

**SECTION 912. Presentation of Demands.**

A. Presentation of Claims for Damages. All claims for damages against the City shall be governed by the general laws of the State of California, unless otherwise provided by ordinance of the city council. All claims for damages against the City must be verified and presented to the city clerk within ninety (90) days after the occurrence, event or transaction from which the damages allegedly arose, or within such shorter time as is otherwise provided by law, and shall set forth in detail the name and address of the claimant, the time, date, place and circumstances of the occurrence and the extent of the injuries or damages sustained. All such claims shall be approved or rejected by order of the city council and the date thereof given. City council may delegate its authority to reject claims to the city manager, city attorney, risk manager or other appropriate officer or department head. Any claim not approved or rejected by the city council within forty-five days of presentation of the claim to the city clerk shall be deemed rejected by operation of law.

B. Other Claims. All other demands against the City must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand

shall be presented to the director of finance within ninety days after the last item of the account or claim accrued, but claims presented after ninety days may be honored in the discretion of the director of finance. The director of finance and treasurer shall examine all claims presented. If the amount thereof is legally due and there remains on the books an unexhausted balance of an appropriation against which the same may be charged, the demand shall be approved and a warrant drawn therefor, payable out of the proper fund. Otherwise the claim shall be rejected, but any such rejection may be overruled by the city council.

C. Presentation to Council. The director of finance shall transmit such demand, with his approval or rejection thereof endorsed thereon, and warrant, if any, to the city manager. If a demand is one for an item included within an approved budget appropriation, it shall require the approval of the city manager, otherwise it shall require the approval of the city council, following the adoption by it of an amendment to the budget authorizing such payment. Any person dissatisfied with the refusal of the city manager to approve any demand, in whole or in part, may present the same to the city council which, after examining into the matter, may approve or reject the demand in whole or in part.

D. Lawsuits. No suit shall be brought for money or damages against the City or any board, commission or officer thereof whether such claim is for tort or contract damages, until a claim or demand for the same has been presented as provided herein and such claim and demand has been rejected in whole or in part. Suits must be brought within the time established in state law, unless the timeliness is waived by the council. If rejected in part, suit may be brought to recover the whole. Any amounts owed to city pursuant to ordinance or resolution must be timely paid, before suit is commenced, though the claimant may pay under protest and contest the payment. The city attorney shall respond to any suit filed hereunder on behalf of the City.

### **SECTION 913. Independent Audit.**

A. **Audit Report.** The city council shall employ, at the beginning of each fiscal year, a qualified certified public accountant who shall, at such time or times as may be specified by the city council, and at such other times as the accountant shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of all such other officers, employees or departments as the city council may direct. No later than one hundred and eighty days after the end of the fiscal year, a final audit and a report shall be submitted by such accountant to the city council, one copy thereof to be distributed to each member, one to the city manager, director of finance and treasurer and city attorney, respectively, and sufficient additional copies of the audit shall be placed on file in the office of the city clerk where they shall be available for the general public, and a copy of the financial statement as of the close of the fiscal year shall be available on the City's official website and at Designated Locations pursuant to Section 308. The city clerk may also use other technological means available to disseminate information to the public.

B. **Management Letter.** In addition to the annual audit report, the auditor shall submit a management letter to the city manager that identifies suggested improvements in internal controls and other financial procedures that the auditor identified during the audit. The city manager will prepare a written response stating actions taken or proposed that will remedy the problems. The management letter and the city manager's response shall be presented to the city council with the annual audit report. The auditor shall present and briefly explain the audit report results at a regular or adjourned regular meeting of the city council.

### **SECTION 914. Purchasing Ordinance.**

The city council may, by ordinance, establish procedures for the procurement of supplies, services, construction of public works, on-call contracts, and the like. Such ordinance may provide requirements and procedures for competitive bidding, and award

to the lowest responsive and responsible bidder except that no competitive bidding shall be required for sole source contracts, contracts for professional services, design build contracts, or contracts undertaken in response to emergency situations or other situations authorized by ordinance of the city council. Formal bids need not be obtained for services such as professional services, where factors other than price are paramount, but informal bids shall be obtained from at least three (3) individuals or firms, and a report shall be prepared documenting the process used and the reasons for selecting the provider. Such ordinance may also establish standards or qualifications for alternative bidding is to be utilized such as (i) screening of contractors or providers of goods and services by a prequalification process, or competitive registration based upon demonstrated competence and experience with similar projects in planning, design, development, finance, construction, maintenance, improvement, repair and operational characteristics; (ii) on-call contracts, where after a bid process is completed, contractors can be on standby to carry out emergency maintenance, repair work and public improvements as the need occurs; (iii) piggyback bidding, where a qualifying bid process with a public agency within the prior 12 months results in a winning bidder who will extend the same pricing to the City; and (iv) design-build for major public works projects budgeted over \_\_\_\_\_ where due to the project complexity city chooses to have general contractor design and build the project for a fixed cost, but the contractor must be selected through a process similar to the foregoing.

Appropriate contract controls shall be prescribed by the city council in the purchasing ordinance. The purchasing ordinance shall also establish criteria for insurance, bonding, liability, transferability, change orders, liquidated damages, terms, enforcement and other factors.

#### **SECTION 915. Outsourcing.**

The City may enter into a contract for any services which can be performed in a superior and cost effective manner by such contractor, unless limited by the Constitution of the State of California. The City shall periodically review its existing operations and

services to consider whether said operations and/or services may be performed as or more efficiently and effectively by a third party. Any contract entered into, pursuant to this provision, shall be approved by the City Council.

## **ARTICLE X – FRANCHISES**

### **SECTION 1000. Granting of Franchises.**

Any person, firm or corporation furnishing the City or its inhabitants with transportation, communication, terminal facilities, water, light, heat, electricity, gas, power, television, refrigeration, storage or any other public utility or service, or using the public streets, ways, alleys or for the operation of plants works or equipment for the furnishing thereof, or traversing any portion of the City for the transmitting or conveying of any such service elsewhere, may be required by ordinance to have a valid and existing franchise therefor. The City may use existing state statutes for the granting of specified franchises, or may by ordinance establish an appropriate process for granting franchise, and conditioning such franchises in a manner which best protects the health, safety and welfare, but shall not interfere with property rights protected by the state constitution. The city council is empowered to grant such franchise to any person, firm or corporation, whether operating under an existing franchise or not, and to prescribe the terms and conditions of any such grant to protect public health and safety, minimize environmental impacts, mitigate impacts on property, prevent interference with city operations, and assure cost recovery. The City may provide, by ordinance, the method of procedure and additional terms and conditions of any such grant or the making thereof, all subject to the provisions of this Charter.

Nothing in this section, or elsewhere in this article, shall apply to the City, or to any department thereof, when furnishing any such utility or service.

### **SECTION 1001. Resolution of Intention; Notice and Public Hearing.**

A. Resolution of Intent. Unless otherwise provided by ordinance of the city council, before granting any franchise, the city council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any

persons having any interest therein or any objection to the granting thereof may appear before the city council and be heard thereon. It shall direct the city clerk to publish said resolution at least once, within fifteen days of the passage thereof, in a newspaper of general circulation in the City, posted on the City's official website and at other location(s) as the city clerk may designate using the most modern means available to disseminate information to the public. Said notice shall be published at least ten days prior to the date of hearing.

B. Hearing; Granting. At the time set for the hearing the city council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the city council shall determine that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon. In connection with granting any franchise, city council may set and collect any franchise fee it deems reasonable, so long as such fee is not arbitrary or confiscatory.

#### **SECTION 1002. Term of Franchise.**

Every franchise shall state the term for which it is granted, which shall not exceed ten years with a maximum of two opportunities to extend the franchise for an additional five years each. Any extensions shall be subject to the approval of a majority of the members of the city council. Any franchise agreement entered into by the city and effective on the effective date of this Charter, whose term extends beyond twenty years after the effective date of this Charter, shall continue in effect for a period of fifteen years beyond the effective date of the Charter, and no further, provided that any franchisee whose franchise is in effect on the effective date of this Chapter may seek an extension of the franchise from city council beyond the fifteen year limit. The city council may grant a longer term on a case by case basis if it finds the ten year limit would impair the franchisee's ability to realize a reasonable return on investment of funds

invested from the time invested and prior to the effective date of this Charter, in reliance on the franchise. The reasonable return on investment, per Section 1004, shall only value the fixed assets themselves and not the value of the franchise. In making such claims, it shall be the obligation of the franchise to produce internal records to demonstrate the value of the investment and the return thereon. The city council may promulgate rules and regulations for the making and consideration of applications for such longer term franchises.

**SECTION 1003. Franchise Inapplicable to City.**

No franchise requirement of the City shall apply to the City, nor any subdivision, department, or division thereof.

**SECTION 1004. Eminent Domain.**

No franchise grant shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing therein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public or private utility. In such a proceeding, no value shall be assigned to the franchise rights themselves, but only to any fixtures or equipment, or other interests arising out of the exercise of the franchise rights, as may be compensable under the general laws of the State of California.