



MAYOR ROBERT GARCIA
CITY OF LONG BEACH

August 7, 2018

MEMBERS OF THE CITY COUNCIL & CHARTER AMENDMENT COMMITTEE
City of Long Beach

RECOMMENDATION:

Recommendation to adopt resolution ordering, calling and providing for and giving notice of a Special Municipal Election to be held in the City of Long Beach on Tuesday, November 6, 2018 for the purpose of submitting a proposed charter amendment to a vote of the qualified electors of the City relating to establishing a three-term limit on Mayoral and City Council service; directing the City Attorney to prepare an impartial analysis of the charter amendment; and providing for the filing of primary and rebuttal arguments and setting rules for the filing of written arguments regarding a proposed charter amendment to be submitted at said election.

DISCUSSION:

On June 12, 2018 and July 17, 2018, the City Council and the Charter Amendment Committee concluded two joint public hearings on a proposed Charter Amendment relating to the Term Limits Measure. This third public meeting fulfills the requirements of City Charter §1903 and California Government Code §34458.

It is now recommended that this proposed Charter Amendment be placed on the November 6, 2018 ballot. To place the Charter Amendment on the ballot, the City Council must (i) call for the General Municipal Election and authorize the Charter Amendment language to be on the ballot; and (ii) request a consolidated election.

FISCAL IMPACT:

No fiscal impact.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

Mayor Robert Garcia
City of Long Beach
Dated: July 30, 2018

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH ORDERING, CALLING AND PROVIDING FOR AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF LONG BEACH ON TUESDAY, NOVEMBER 6, 2018, FOR THE PURPOSE OF SUBMITTING A PROPOSED CHARTER AMENDMENT TO A VOTE OF THE QUALIFIED ELECTORS OF THE CITY; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE CHARTER AMENDMENT; AND PROVIDING FOR THE FILING OF PRIMARY AND REBUTTAL ARGUMENTS AND SETTING RULES FOR THE FILING OF WRITTEN ARGUMENTS REGARDING A PROPOSED CHARTER AMENDMENT TO BE SUBMITTED AT SAID ELECTION

WHEREAS, term limits have been established by numerous state and local governments in order to encourage participation in governance, diversify the pool of candidates for elected offices and set clear and understandable rules for candidates; and

WHEREAS, Long Beach City Charter Section 214 currently provides that the Mayor and City Councilmembers may not serve more than two full terms in office, but further provides an exception permitting write-in candidacies, leading to uncertainty and confusion in the administration of the Charter provision; and

WHEREAS, pursuant to authority provided by California Constitution, Article XI, Long Beach City Charter Section 1903, California Government Code Sections 34450 et. seq. and California Elections Code Sections 9255 et. seq., the City Council of the City of Long Beach desires to submit to the voters a proposed charter amendment to clarify

1 term limitations requirements by limiting the Mayor and Councilmembers to serving three
2 terms for each office, and eliminating the exception to term limits for write-in candidates,
3 subject to the terms and conditions set forth therein ("Charter Amendment"); and

4 WHEREAS, California Constitution, Article XI, Section 3, requires that any
5 charter amendment be approved by a majority of City voters voting at an election called
6 for that purpose; and

7 WHEREAS, pursuant to California Government Code Section 34458(b), the
8 City Council held a duly noticed public hearing on June 12, 2018 and a second duly
9 noticed public hearing on July 17, 2018 to hear public comment and testimony and to
10 consider the Charter Amendment, with the first public hearing being held at 5:00 p.m.,
11 outside normal City business hours; and

12 WHEREAS, pursuant to California Government Code Section 34458(b), this
13 resolution is being adopted at a City Council meeting which is at least twenty-one (21)
14 calendar days after the second public hearing referenced above; and

15 WHEREAS, the City Council is authorized and directed by statute to submit
16 the proposed Charter Amendment to the voters; and

17 WHEREAS, the City Council further desires to set deadlines and rules for
18 primary and rebuttal arguments for and against the Charter Amendment;

19 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
20 follows:

21 Section 1. The foregoing recitals are true and correct and are hereby
22 incorporated and made an operative part of this Resolution.

23 Section 2. That pursuant to the provisions of California Constitution, Art.
24 XI, Section 3, Long Beach City Charter section 1903, California Government Code,
25 Sections 34450 et. seq., and California Elections Code, Sections 9255 et. seq., and any
26 other applicable requirements of the laws of the State of California relating to charter
27 cities, the City Council, by a majority vote, hereby calls and orders to be held a Special
28 Municipal Election in the City of Long Beach between the hours of 7:00 a.m. and 8:00

p.m. on Tuesday, the 6th day of November, 2018, for the purpose of submitting to a vote of the qualified electors of the City of Long Beach the following proposed Charter Amendment:

"City of Long Beach Term Limits Amendment. Shall the City Charter be amended to limit the Mayor and City Councilmembers to serving three terms and to prohibit individuals who have already served three terms from being elected as write-in candidates?"	YES
	NO

Section 3. That the text of the Charter Amendment to be submitted to the voters is attached hereto as Exhibit "A".

Section 4. That the minimum vote requirement for the Charter Amendment to pass is a simple majority (50% + 1) of the votes cast.

Section 5. That pursuant to California Elections Code Section 9280 and Long Beach Municipal Code Section 1.24.100, the City Council hereby directs the City Clerk to transmit a copy of the Charter Amendment to the City Attorney. The City Attorney shall prepare an impartial analysis of the Charter Amendment, not to exceed 500 words in length, showing the effect of the Charter Amendment on the existing law and the operation of the Charter Amendment, and transmit such impartial analysis to the City Clerk not later than the deadline for submittal of primary arguments for or against the Charter Amendment.

The impartial analysis shall include a statement indicating whether the Charter Amendment was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the Charter Amendment is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following: **"The above statement is an impartial analysis of Ordinance or Measure "____". If you desire a copy of the ordinance or measure,**

1 **please call the Office of the City Clerk at [insert phone number] and a copy will be**
2 **mailed at no cost to you.”**

3 Section 6. Primary Arguments. That the City Council authorizes (i) the
4 Mayor, City Council or any member(s) of the City Council, (ii) any appointive officer of the
5 City, (iii) any individual voter eligible to vote on the above measure, (iv) a bona fide
6 association of such citizens or (v) any combination of voters and associations, to file a
7 written argument in favor of or against the City measure, accompanied by the printed
8 name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4,
9 Chapter 3, Division 9 of the Elections Code of the State of California and Long Beach
10 Municipal Code Chapter 1.24, and to change the argument until and including the date
11 fixed below by the City Clerk, after which no arguments for or against the City measure
12 may be submitted to the City Clerk.

13 Section 7. Pursuant to Long Beach Municipal Code Section 1.24.020,
14 the Mayor, with the approval of the City Council, may designate a person, or association
15 of persons, to write arguments either for or against or both for and against the adoption of
16 any measure or proposition placed on the ballot.

17 Section 8. The deadline to submit arguments for or against the City
18 Measure pursuant to this Resolution is declared by the City Clerk to be Friday, August
19 17, 2018, at 4:30 p.m. Each argument shall not exceed three hundred (300) words and
20 shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s)
21 of the author(s) submitting it, or if submitted on behalf of an organization, the name of the
22 organization, and the printed name and signature of at least one of its principal officers
23 who is the author of the argument.

24 Section 9. Rebuttal Arguments. Pursuant to Section 9285 of the
25 Elections Code of the State of California, when the City Clerk has selected the primary
26 arguments for and against the City Measure which will be printed and distributed to the
27 voters, the Clerk shall send copies of the primary argument in favor of the Measure to the
28 authors of the primary argument against, and copies of the primary argument against to

1 the authors of the primary argument in favor. The authors or persons designated by
2 them may prepare and submit rebuttal arguments not exceeding two hundred fifty (250)
3 words. The rebuttal arguments shall be filed with the City Clerk not later than Monday,
4 August 27, 2018 at 4:30 p.m. Authors may change a rebuttal argument until and
5 including the date fixed above by the City Clerk, after which no rebuttal arguments for or
6 against the City measure may be submitted to the City Clerk. Rebuttal arguments shall
7 be printed in the same manner as the primary arguments. Each rebuttal argument shall
8 immediately follow the primary argument which it seeks to rebut.

9 Section 10. That notice of the time and place of holding the election is
10 hereby given and the City Clerk is authorized, instructed and directed to give further or
11 additional notice of the election, in time, form and manner as required by law.

12 Section 11. The City Clerk is authorized, instructed and directed to
13 procure and furnish any and all official ballots, notices, printed matter and all supplies,
14 equipment and paraphernalia that may be necessary in order to properly and lawfully
15 conduct the election.

16 Section 12. That the ballots to be used at the election shall be in form and
17 content as required by law.

18 Section 13. That in all particulars not recited in this resolution, the election
19 shall be held and conducted as provided by law for holding municipal elections.

20 Section 14. The City Treasurer is hereby authorized and directed to
21 appropriate the necessary funds to pay for the City's cost of placing the Charter
22 Amendment on the election ballot.

23 Section 15. The City Council finds that this Resolution is not subject to the
24 California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the
25 activity will not result in a direct or reasonably foreseeable indirect physical change in the
26 environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378)
27 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it
28 has no potential for resulting in physical change to the environment, directly or indirectly.

Section 16. The provisions of this Resolution are severable and if any provision of this Resolution is held invalid, that provision shall be severed from the Resolution and the remainder of this Resolution shall continue in full force and effect, and not be affected by such invalidity.

Section 17. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 2018 by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN City Attorney
333 West Ocean Boulevard, 11th Floor
Lana Beach, CA 90802-4664

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EXHIBIT "A"
Text of Charter Amendment
[attached behind this page]

MEASURE “ ____ ”

SECTION 1. THE PEOPLE OF THE CITY OF LONG BEACH DO HEREBY AMEND THE LONG BEACH CITY CHARTER BY REPEALING SECTION 214 AND REPLACING IT WITH THE FOLLOWING ARTICLE ____ TO THE CITY CHARTER:

“ARTICLE ____ – TERM LIMITATIONS ON BALLOT ACCESS BY CANDIDATES FOR CITY COUNCIL AND MAYOR

~~Section 214. – TERM LIMITATIONS ON BALLOT ACCESS BY CANDIDATES FOR CITY COUNCIL AND MAYOR.~~ Mayor and City Council – Three Term Limit.

(a) Notwithstanding any other previously enacted provision of law or of this Charter, *during his or her lifetime, a person may serve no more than three (3) terms as a member of the Long Beach City Council, and may also serve no more than three (3) terms as Mayor of Long Beach.* ‡The City Clerk, or other election official authorized by law, shall not accept or verify the signatures on any nomination paper for any person, *including any paper seeking election as a write-in candidate*, nor shall he or she certify or place on the list of certified candidates, nor print or cause to be printed on any ballot, ballot pamphlet, sample ballot or ballot label, the name of any person whose ~~either candidacy, if successful, will result in a new Mayoral or City Council term that exceeds the limits set forth herein.~~

~~(1) Is elected to two full terms as a member of the City Council after November 3, 1992 and thereafter seeks to become a candidate for City Council, or~~

~~(2) Is serving a full unexpired term as a member of the City Council on November 3, 1992 or other date upon which this act becomes law and is subsequently elected to a second full term as a member of the City Council and thereafter seeks to become a candidate for City Council, or~~

~~(3) Is elected to two full terms as Mayor after November 3, 1992 and thereafter seeks to become a candidate for Mayor, or~~

~~(4) Is serving a full unexpired term as Mayor on November 3, 1992 or other date upon which this act becomes law and is subsequently elected to a second full term as Mayor and thereafter seeks to become a candidate for Mayor.~~

(b) ~~Write-In Candidacies. Nothing in this article shall be construed as prohibiting any qualified voter of this City from casting a ballot for any person by writing the name of that person on the ballot, or from having such ballot counted or tabulated, nor shall any provision of this article be construed as prohibiting any person from standing or campaigning for any elective office by means of a write-in campaign. Notwithstanding Section 214(a) above, in the event that a write-in candidate is nominated at a primary election pursuant to Section 1904, that candidate's name shall appear on the ballot for the general election pursuant to Section 1905.~~ **For purposes of this Section, “term” shall mean the following:—**

(1) Any full four-year term of service for which a person was formally nominated (not as a write-in candidate) and to which he or she was elected to office at any Municipal Primary or General Election, occurring on or after November 3, 1992;

(2) Any full four-year term of service for which a person was formally nominated (not as a write-in candidate) and to which he or she was appointed in lieu of a Municipal Election, pursuant to California Elections Code Section 10229, occurring on or after November 3, 1992;

(3) Any full four-year term of service for which a person was nominated as a write-in candidate and to which he or she was elected to office at any Municipal Primary or General Election occurring on or after November 6, 2018;

(4) Any full four-year term of service described in paragraphs (1) through (3) above, which commences on or after November 6, 2018 and which terminates prior to the scheduled expiration of the term due to any of the following:

(a) The officer's seat is lawfully declared vacant during that term for any reasons other than resignation;

(b) The officer is lawfully recalled from office by the voters during that term;

(c) The officer has legally forfeited his or her elected office under applicable Federal or State law during that term.

(d) If the officer vacates his or her office due to resignation:

(i) If the resignation occurs with more than two years remaining in his or her current term, this shall not count as a "term" against the three-term limit.

(ii) If the resignation occurs with two years or less remaining in his or her current term, this shall count as a "term" against the three-term limit.

(c) For purposes of this Section, "term" shall not mean any of the following:

(1) Any full four-year term of service, whether expired or unexpired, for which a person was nominated as a write-in candidate and to which he or she was elected to office at any Municipal Primary or General Election occurring prior to November 6, 2018;

(2) Any term to which a person has been specially elected or appointed to the office of Mayor or City Council to fill a mid-term vacancy, pursuant to City Charter Section 204;

(3) Any full four-year term of service for which a person was elected to office, or was appointed in lieu of a Municipal Election, pursuant to California Elections Code Section 10229, at any Municipal Primary or General Election, occurring prior to November 3, 1992.

(d) No person who has already served three terms as a member of the City Council may be appointed to serve on the City Council, and no person who has already served three terms as Mayor may be appointed to serve as Mayor, whether said appointment is in lieu of a Municipal Election, pursuant to California Elections Code Section 10229, or to fill a vacancy on the City Council pursuant to City Charter Section 204.

(e) No person who has already served three terms as a member of the City Council may run for special election to fill a vacancy on the City Council pursuant to City Charter Section 204. No person who has already served three terms as Mayor may run for special election to fill a vacancy in the office of Mayor pursuant to City Charter Section 204."

SECTION 2. Approval, Filing and Recordation of Charter Amendment. Pursuant to California Government Code Section 34460, if approved by a majority of voters, the Mayor and City Clerk shall certify, authenticate and attest to the passage of this Charter Amendment. The City Clerk shall also (i) record one copy of this Charter Amendment with the Los Angeles County Recorder's Office, (ii) file one copy in the City's archives and (iii) file one copy with the California Secretary of State. Each copy recorded with the County Recorder and filed in the City's archives shall also be filed with the following:

(a) Certified copies of all publications and notices required of the City by State law in connection with the calling of an election to propose the Charter Amendment.

(b) Certified copies of any arguments for or against the Charter Amendment that were mailed to voters pursuant to California Elections Code Sections 9281 and 13303.

(c) A certified abstract of the vote at the election at which the Charter Amendment was approved by the voters.

SECTION 3. Ratification and Effective Date. Pursuant to California Government Code Section 34459, this Charter Amendment shall be deemed ratified if approved by a majority of the eligible voters of the City of Long Beach voting at the General Election of November 6, 2018. However, this Charter Amendment shall not take effect until it has been accepted and filed by the Secretary of State pursuant to Government Code Section 34460.

SECTION 4. Severability. If any provision of this Charter Amendment or the application thereof to any person or circumstance is held invalid, the remainder of the Charter Amendment and the application of such provision to other persons or circumstances shall not be affected thereby.

PASSED, APPROVED and ADOPTED by the People of the City of Long Beach at a General Election held on November 6, 2018.

ROBERT GARCIA
Mayor of the City of Long Beach

Attest:

Monique De La Garza
City Clerk

Approved as to form:

Charles Parkin
City Attorney