



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 the City Auditor's Authority; 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 City Auditor's Authority. 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.

Pursuant to the request of the Charter Amendment Committee at its meeting of July 17, 2017, Section 806 was revised to read as follows: "The City Auditor shall be furnished a copy of all reports of a financial nature prepared by any department, commission, office or agency of the City. In the performance of his or her duties, the City Auditor shall have timely and responsible access to all requested City records, including but not limited to financial records, contracts, documents, systems, files, property and other internal records, unless restricted or prohibited by law."

It is requested that the words "and responsible" and "requested" be deleted for clarity's sake, as follows:

"Sec. 806. The City Auditor shall be furnished a copy of all reports of a financial nature prepared by any department, commission, office or agency of the City. In the performance of his or her duties, the City Auditor shall have ~~timely and responsible~~ access to all ~~requested~~ City records, including but not limited to financial records, contracts, documents, systems, files, property and other internal records, unless restricted or prohibited by law."

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, Long Beach City Charter Sections 803 and 806 currently authorize the City Auditor to perform certain functions and obtain certain documents in order to analyze and examine the performance of certain City contracts, programs, and agreement; 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 clarifying the authority of the City Auditor to conduct performance audits and obtain certain documents and records in support thereof, subject to the terms and conditions set forth therein ("Charter Amendment"); and

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

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

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

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

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

16 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
17 follows:

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

20 Section 2. That pursuant to the provisions of California Constitution, Art.
21 XI, Section 3, Long Beach City Charter section 1903, California Government Code,
22 Sections 34450 et. seq., and California Elections Code, Sections 9255 et. seq., and any
23 other applicable requirements of the laws of the State of California relating to charter
24 cities, the City Council, by a majority vote, hereby calls and orders to be held a Special
25 Municipal Election in the City of Long Beach between the hours of 7:00 a.m. and 8:00
26 p.m. on Tuesday, the 6th day of November, 2018, for the purpose of submitting to a vote
27 of the qualified electors of the City of Long Beach the following proposed Charter
28 Amendment.

"Authority of Long Beach City Auditor to Conduct Performance Audits. Shall the City Charter be amended to authorize the City Auditor to conduct performance audits, defined as financial, compliance, efficiency, economy, operational, or program audits or studies, of any City department, board or commission?"	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, please call the Office of the City Clerk at [insert phone number] and a copy will be mailed at no cost to you."**

Section 6. Primary Arguments. That the City Council authorizes (i) the

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

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

14 Section 8. The deadline to submit arguments for or against the City
15 Measure pursuant to this Resolution is declared by the City Clerk to be Friday, August
16 17, 2018, at 4:30 p.m. Each argument shall not exceed three hundred (300) words and
17 shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s)
18 of the author(s) submitting it, or if submitted on behalf of an organization, the name of the
19 organization, and the printed name and signature of at least one of its principal officers
20 who is the author of the argument.

21 Section 9. Rebuttal Arguments. Pursuant to Section 9285 of the
22 Elections Code of the State of California, when the City Clerk has selected the primary
23 arguments for and against the City Measure which will be printed and distributed to the
24 voters, the Clerk shall send copies of the primary argument in favor of the Measure to the
25 authors of the primary argument against, and copies of the primary argument against to
26 the authors of the primary argument in favor. The authors or persons designated by
27 them may prepare and submit rebuttal arguments not exceeding two hundred fifty (250)
28 words. The rebuttal arguments shall be filed with the City Clerk not later than Monday,

1 August 27, 2018 at 4:30 p.m. Authors may change a rebuttal argument until and
2 including the date fixed above by the City Clerk, after which no rebuttal arguments for or
3 against the City measure may be submitted to the City Clerk. Rebuttal arguments shall
4 be printed in the same manner as the primary arguments. Each rebuttal argument shall
5 immediately follow the primary argument which it seeks to rebut.

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

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

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

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

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

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

26 Section 16. The provisions of this Resolution are severable and if any
27 provision of this Resolution is held invalid, that provision shall be severed from the
28 Resolution and the remainder of this Resolution shall continue in full force and effect, and

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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 AMENDING SECTIONS 803 AND 806 ~~ADDING THE FOLLOWING OF~~ ARTICLE VIII TO OF THE CITY CHARTER:

“ARTICLE VIII – CITY AUDITOR.

Section 803. – Duties of the City Auditor

The City Auditor shall be the general auditor of the City and of every department, commission and office thereof. The City Auditor shall have the authority to conduct performance audits of City departments, boards, commissions and offices. Performance audits are defined as independent assessments of programs, functions, operations, or management designed to enhance performance, cost savings, efficiency or service improvements. The City Auditor, as often as the City Auditor shall deem it advisable, but in any case at least once in each fiscal year, and at such other times as the City Auditor shall be directed by the City Council, shall carefully examine and audit the books, records, accounts, funds and securities of all departments, boards, commissions and offices of the City for the purpose of determining: the accuracy and correctness of such books, records and accounts; that the City and Commissions thereof are receiving all monies, of whatsoever nature due it or them; and that such monies are allocated to the funds entitled thereto. Immediately upon the completion of such examination and audit, the City Auditor shall make and file with the City Council Clerk, ~~in triplicate,~~ a written report thereof. If, during the course of such examination and audit, the City Auditor discovers any irregularities, the City Auditor shall immediately make and file a written report thereof to the City CouncilClerk.

The City Auditor shall verify the cash in the City Treasury at least once a quarter and shall make a written report thereof to the City Council.

~~Within the time provided by law, the City Auditor shall calculate the property tax rate and certify it to the City Council.~~

Sec-tion 806. - COPIES OF RECORDS, REPORTS AND CONTRACTS.

~~A certified copy of every contract in which the City or any of its commissions is a party shall be filed with the City Auditor within ten (10) days after execution. The City Auditor shall be furnished a copy of all reports of a financial nature prepared by any department,~~

commission, office or agency of the City. In the performance of his or her duties, the City Auditor shall have timely and responsible ~~the right of immediate~~ access to all requested City financial records of the City, including but not limited to financial records, contracts, documents, systems, files, property and other internal records, unless restricted or prohibited by law ~~not otherwise confidential pursuant to municipal, state or federal law.~~

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 Special 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