

July 19, 2022

CHARTER AMENDMENT COMMITTEE  
City of Long Beach  
California

**RECOMMENDATION:**

Recommendation to receive and file comments from the community and receive and file supporting documentation into the record regarding the proposed consolidation of the City's existing water, sewer and gas utilities into a single publicly-owned utility, governed by the existing independent Water/Public Utilities Commission, for the purposes of improving customer service through better coordination of street pipeline and infrastructure repairs; and refer to the City Council to consider adoption of all required resolutions to place the Charter amendment on the November 8, 2022 General Election Ballot. (Citywide)

**DISCUSSION**

On May 17, 2022, the Long Beach City Council voted to convene the Charter Amendment Committee of the City Council to consider placing a City Charter amendment before voters to combine City Charter Article XV (Department of Public Utilities) with Article XIV (Water Department) to merge the existing water, sewer and gas utilities into a single publicly-owned utility, governed by the existing independent Water/Public Utilities Commission, for the purposes of improving customer service through better coordination of street pipeline and infrastructure repairs. A copy of the Council letter associated with that vote is attached (Attachment A).

The Charter Amendment Committee held its first public hearing on June 14, 2022, received and filed supporting documentation into the public record, took public comment and moved to convene a second public hearing on the matter.

Expectations are that a merger of the existing water, sewer and gas utilities into a single publicly-owned utility will:

- Reduce impacts to streets through coordinated utility pipeline street repairs;
- Improve customer service by coordinating all utility services as one department;
- Eliminate duplicative costs and operations;
- Achieve costs savings through greater economies of scale; and,
- Increase transparency in utility budgeting and rate setting.

The proposed changes to the City Charter are detailed in Attachment B.

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Under State law, a majority of Long Beach voters must approve any City Charter Amendment. The next available date to place this Charter amendment on the ballot will be November 8, 2022.

To consider this amendment for the November 8, 2022 election, State law requires there be three public hearings/meetings over the next 60 days. At each of these hearings/meetings there will be opportunities for discussion, receiving community input, and making changes to the Charter amendment language.

The full Charter Amendment Committee hearing/meeting dates are as follows:

- June 14, 2022 – First public hearing: Receive staff presentation, hear public comment, direct staff to gather any further information or implement changes.
- July 19, 2022 – Second public hearing: Receive any updated information, hear public comment, direct staff to gather any information or make amendment changes.
- August 9, 2022 – Final meeting: Receive any updated information, hear public comment, make any final amendment changes, and if the City Council so chooses, adopt the required resolutions to place the Charter amendment on the November 8, 2022 General Election ballot.

TIMING CONSIDERATAIONS

Charter Committee Action is requested on July 19, 2022.

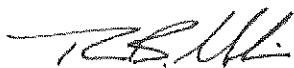
FISCAL IMPACT

Discussion of proposed amendments has no fiscal impact.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



THOMAS B. MODICA  
CITY MANAGER

Attachment: A – City Council Letter May 17, 2022  
B – Recommended Charter Amendment Language

## **R-22**

May 17, 2022

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

### RECOMMENDATION:

Request the Mayor to convene the Charter Amendment Committee of the City Council within 30 days to discuss placing a City Charter amendment before the voters to combine City Charter Article XV (Department of Public Utilities) with Article XIV (Water Department) to merge the existing water, sewer and gas utilities into a single publicly-owned utility, governed by the existing independent Water/Utility Commission, for the purposes of improving customer service through better coordination of street pipeline and infrastructure repairs. (Citywide)

### DISCUSSION

Over the nearly 100 years of their mutual existence, periodic consideration has been given to the concept of consolidating the City's Gas and Water utilities into one department, under one regulatory oversight body with common management.

Both Gas and Water utilities serve the same base of Long Beach residents and businesses, with the Gas utility also providing services to Signal Hill residents and businesses. Gas serves approximately 150,000 metered customers and Water serves approximately 90,000 metered customers; the primary difference in the number of metered accounts is due to Gas having a greater number of individually metered customers than Water. Gas delivers its commodity through 916 miles of gas main pipelines, and another 1,019 of gas service lines. Water similarly delivers its commodity through 946 miles of water main pipelines and 464 miles of water service lines. In addition, Water oversees the maintenance and operation of about 700 miles of sewer pipelines. These combined 4,000 miles of underground gas, water, and sewer pipelines are predominately located together in the same streets. However, because the City Charter currently prescribes Water and Gas be managed separately, oversight of the two utilities is bifurcated, street excavations for pipeline maintenance and repairs are conducted separately, and in some cases duplicative work occurs, causing increased disruptions and impacts to our local streets and roads.

Long Beach is the only large California city with two municipally-run utilities – the Gas and Water departments – separately operated, managed, and regulated. Other cities such as Los Angeles, Glendale, Burbank, Anaheim, Pasadena, and Riverside operate and manage city-owned utilities under one department overseen by an independent board of commissioners.

In April 2020, Bell Burnett and Edwards (BB&E), a management and consulting firm with extensive experience in combined utility management, financial management, and municipal

governance, evaluated the potential consolidation of Gas and Water utilities in Long Beach. BB&E found a consolidation of Gas and Water would benefit customers through improved customer service, improved operation, and management of the utilities, provide for more efficient and better utilization of staffing, and bring more transparency and focused governance to the City's utilities.

If a proposed amendment to the Long Beach City Charter is adopted by voters, the City Charter's Article XV (Department of Public Utilities) will be melded with Article XIV (Water Department), effectively merging regulatory oversight, management, and operations of the City's Gas and Water departments.

Expectations are that a merger of the existing water, sewer, and gas utilities into a single publicly-owned utility will:

- Improve customer service by coordinating street pipeline and infrastructure repairs;
- Reduce impacts to streets through coordinated utility pipeline street repairs;
- Eliminate duplicative costs and operations;
- Achieve costs savings through greater economies of scale; and
- Allow both utilities to maximize usage and flexibility in staffing and equipment.

This matter was reviewed by Deputy City Attorney Richard Anthony on May 2, 2022 and by Budget Operations and Development Officer Rhutu Amin Gharib on May 3, 2022.

#### TIMING CONSIDERATIONS

City Council action is requested on May 17, 2022.

#### FISCAL IMPACT

This recommendation is to convene the Charter Amendment Committee of the City Council to discuss placing a City Charter amendment before the voters to combine City Charter Article XV (Department of Public Utilities) with Article XIV (Water Department) to merge the existing water, sewer and gas utilities into a single publicly-owned utility, governed by the existing independent Water/Utility Commission, for the purposes of improving customer service through better coordination of street pipeline and infrastructure repairs. The recommendation to convene the City Charter Amendment Committee has no staffing impact beyond the normal budgeted scope of duties and is consistent with City Council Priorities.

Should the voters pass the charter amendment, the City will rename the Long Beach Board of Water Commissioners, and it shall be known as the Long Beach Board of Public Utilities; and will return to Council to discuss the fiscal impact of implementation. Implementation of the consolidation is not expected to generate new costs and will be absorbed by existing budget.

There is no local job impact associated with this recommendation.

HONORABLE MAYOR AND CITY COUNCIL  
May 17, 2022  
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SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. B. Modica', written in a cursive style.

THOMAS B. MODICA  
CITY MANAGER

## ARTICLE III. – CITY MANAGER

### Section 300. - SELECTION AND QUALIFICATIONS.

The City Council shall appoint a City Manager who shall be the chief administrative officer of the City. The City Manager shall be responsible for the administration of all departments except the City Attorney, City Auditor, City Prosecutor, Civil Service Department, Legislative Department, Harbor Department and Water-Public Utilities Department. The City Council, subject to veto by the Mayor and City Council override by a vote of two-thirds (2/3) of its members, shall appoint the person deemed best qualified on the basis of executive and administrative capabilities, with special reference to experience in, and knowledge of, accepted practices with respect to the duties of the office as set forth in this Charter. The City Manager shall be appointed for an indefinite period and cannot be removed from office except by a vote of five (5) members of the City Council, subject to veto by the Mayor and City Council override by a vote of two-thirds (2/3) of its members.

ARTICLE V. - OFFICERS AND EMPLOYEES

Section 500. - OFFICERS OF THE CITY.

The officers of the City shall be:

The Mayor and members of the City Council

City Attorney

City Auditor

City Prosecutor

City Manager

Assistant City Manager

City Clerk

Five members of the Civil Service Commission

Five members of the Harbor Commission

Five members of the Water-Public Utilities Commission

Seven members of the Planning Commission

All department heads and other persons who in the exercise of their duties perform governmental functions of the City

Officers created by general state law, City ordinance or resolution.

Sec. 505. - HOURS OF OFFICERS AND EMPLOYEES.

All elective and appointive officials, their assistants, deputies and clerks, and other employees of the City shall devote their entire time during business hours to the duties of their respective offices, or employment. The City Attorney, City Prosecutor, City Auditor, City Manager, Executive Director of the Harbor Department and the General Manager of the Water-Public Utilities Department, shall not engage in any other business or practice during their respective tenure of office or employment. The members of the City Council and members of any commission are specifically exempted from the provisions of this section. The provisions of this section shall not be applicable to professional or technical assistants temporarily employed by the City or an autonomous commission to assist or advise any City departments. Any ordinance adopted by the City Council regulating the employment of officers and employees of the City outside business hours shall be

applicable to, and binding upon, officers and employees of all City Departments, including autonomous departments.

Sec. 508. - TERMS OF COMMISSION MEMBERS.

The term of office of members of the Commissions set forth in this Charter shall be four (4) years, except that the term of office of members of the Harbor Commission shall be six (6) years and the term of office for Water-Public Utilities Commission members shall be five (5) years, beginning with the first Monday after the first day of July following their respective appointments, and until their successors are appointed and take office. No person shall serve more than two (2) full terms on any one Commission. Serving any portion of an unexpired term shall not be counted as service of one term on such Commission.



ARTICLE XIV. - WATER-PUBLIC UTILITIES DEPARTMENT

Section 1400. - ESTABLISHMENT OF WATER-PUBLIC UTILITIES DEPARTMENT.

There is hereby created a Water-Public Utilities Department which shall be under the exclusive jurisdiction and control of five commissioners who shall be known as the Board of Water-Public Utilities Commissioners. ~~Said Water-~~The Public Utilities Department shall have full and complete jurisdiction over all water-facilities and works necessary and incidental to the use, sale and distribution of water and gas owned and controlled by the City, ~~and~~ all of the City's sewer system, and any other public utility operated by the City which the City Council specifically designates by ordinance as under the jurisdiction and control of the Board of Public Utilities Commissioners. The Public Utilities Department and the Board of Public Utilities Commissioners shall be entitled to the rights, and liable for the obligations of, the Water Department and the Board of Water Commissioners under all existing contracts and otherwise as may be provided by applicable law.

Sec. 1401. - RULES OF PROCEDURE.

The officers, their terms and duties, dates and times of meetings, form of minutes, and other procedural matters shall be established by the Commission to govern its activities under this Charter.

Sec. 1402. - WATER RIGHTS.

The City shall continue in the ownership and enjoyment of all water and water rights vested in it, and ownership of the right to develop, economize, control, use, conserve, and utilize all water flowing or being beneath the surface of any and all lands now owned or that may be hereafter acquired by it. No water rights now or hereafter owned or controlled by the City, shall ever be permanently sold, leased or disposed of, in whole or in part, without the assent of two thirds (2/3) of the qualified voters of the City, voting on the proposition at a general or special election at which such proposition shall be lawfully submitted.

Sec. 1403. - POWERS AND DUTIES.

The Commission shall have the complete and exclusive power and duty:

- (1) To supervise, control, regulate and manage the Water-Public Utilities Department, and to make and enforce all necessary rules and regulations therefore, and for the exercise of such other powers as are conferred upon the Commission by this Charter.
- (2) To appoint a General Manager jointly selected by the Commission and the City Manager, who shall be the chief administrative officer of the Water-Public Utilities Department, and who shall exercise the management of all activities placed under the jurisdiction of the Commission and to ratify-confirm the qualifications of the

~~employment by the General Manager of an Assistant General Manager(s) appointed by the General Manager and of Deputy General Managers. The Assistant General Manager designated by the General Manager shall perform the duties of the General Manager in the event of the absence or disability of the General Manager and shall perform such other duties as the General Manager shall direct. After appointment, the General Manager shall report to, and hold office during at the pleasure of, the Commission. No such General Manager or Assistant General Manager(s), shall be, nor have been for at least six-one (16) yearmonths prior to employment at the Water-Public Utilities Department, a member of the Commission.~~

- (3) To create positions of employment to be filled by the General Manager, and to establish the duties, authority and range of compensation for those positions provided that the positions for classified service shall be subject to the Civil Service provisions of this Charter. The Commission shall establish a plan of succession describing who shall perform the duties and have authority of the General Manager, Assistant General Manager(s), and other key employees which plan of succession shall take effect in the event of a natural disaster, an emergency, or other catastrophe. All positions of employment in the permanent service of the Commission shall be created by resolution. The compensation fixed by the Commission for all officers and employees in the Water-Public Utilities Department shall be subject to the prior approval of the City Council by resolution. All other privileges and benefits to which such officers and employees shall be entitled, except as provided by this Charter or other applicable law, shall be such as shall be prescribed by the City Council by ordinance or resolution.
- (4) To construct, operate, maintain, extend, manage and control facilities, works and property heretofore or hereafter acquired for the use of, or paid for directly or indirectly out of the funds of, the Water-Public Utilities Department, and to acquire and take by purchase, lease, condemnation, or otherwise, and to hold in the name of the City any and all property situated within or without the City, and within or without the State, that may be necessary or convenient for such use; and also to have, exercise and enjoy in the name of and for and on behalf of the City of Long Beach, all powers, rights and privileges, that are granted to the City, or any of its officers or bodies, under an Act of Legislature known as Chapter 429 of the Statutes of 1927 (Stat. 1927, p. 694), approved by the Governor of the State of California on the 10th day of May, 1927, as reenacted in 1969 as Chapter 209, and all acts amendatory amendments thereto.
- (5) To regulate and control the use, sale and distribution of natural gas owned or controlled by the City, the collection of gas charges and the granting of permits for connections with gas facilities; and to fix the rates to be charged for such connection including connections installed for other departments of the City; and subject to the approval of the City Council by resolution, to fix the rates to be charged for gas for use within or without the City, including rates for gas delivered to other departments of the City; and to prescribe the time and manner of payment

of the same; provided that nothing in this Charter shall prevent payment to the Public Utilities Department by other departments of the City for gas delivered or service rendered or labor or materials furnished to such other departments. Such rates shall be fair and reasonable, taking into consideration, among other things, the nature of the use, the quantity supplied and the value of the service. Such rates and charges for users of gas supplied by the Public Utilities Department shall be generally based upon the prevailing rates for similar services and commodities supplied or sold by other like utilities whether public or private, operating in the Southern California area.

- (65) To regulate and control the use, sale and distribution of water owned or controlled by the City, the collection of water charges and the granting of permits for connections with ~~said~~ water works; and to fix the rates to be charged for such connection including connections installed for other departments of the City; and subject to the approval of the City Council by ordinanceresolution, to fix the rates to be charged for water for use within or without the City, including rates for water delivered to other departments of the City, and to fix rates to be charged the Fire Department for standby service to fire hydrants; and to prescribe the time and manner of payment of the same; provided that nothing in this Charter shall prevent payment to the Water-Public Utilities Department by other departments of the City for water delivered or service rendered or labor or materials furnished to ~~said-such~~ other departments. Such rates shall be fair and reasonable, taking into consideration, among other things, the nature of the use, the quantity supplied and the value of the service; ~~provided, however, that the rates inside the City may be less, but not greater, than the rates outside the City for the same or similar uses.~~
- (76) To supervise, regulate, control, construct, operate, maintain, extend and manage the City's sewer system, the collection of sewer charges and the granting of permits for connections with ~~said-the~~ sewer system; and to fix the rates to be charged for such connection including connections installed for other departments of the City; and, subject to the approval of the City Council by ordinanceresolution, to fix the rates and charges for sewer service, and to prescribe the time and manner of payment of the same; provided that nothing in this Charter shall prevent payment to the Water-Public Utilities Department by other departments of the City for sewer service rendered or labor or materials furnished to ~~said-such~~ other departments. Such rates and charges shall be fair and reasonable, taking into consideration, among other things, the nature of the use and the value of the service.
- (87) To supply and distribute, at rates fixed as herein before provided, any surplus water or gas owned or controlled by the City and not required for the use of consumers served by the City within its limits, to consumers outside the City for their own use, and to municipal corporations outside the City for municipal uses, for resale, disposal or distribution, to consumers within their limits; provided that the supplying or distribution of such surplus water or gas shall in any case be subject to the paramount right of the City at any time, to discontinue the same, in whole or in part, and to take and hold or to distribute such surplus water or gas for

the use of the City and its inhabitants; provided, further, that contracts for supplying surplus water or gas by the City to consumers or municipal corporations outside the City, or for any exchange of surplus water or gas with any such outside consumers or municipal corporations, may be made by the Commission in the name of the City, for periods not exceeding fifteen years, and upon such terms and conditions, and for such compensation to the City as shall be prescribed by resolution adopted by the Commission and approved by ~~ordinance or~~ resolution of the City Council; but in every such contract, the right shall be reserved to the City to terminate the same upon ~~three years'~~ written notice to such consumer or municipal corporation, to be given by ~~said the~~ Commission whenever it shall determine ~~and declare by resolution adopted by the Commission and approved by an ordinance or resolution of the City Council,~~ that the water or gas to be supplied under such contract, is required for the City and its inhabitants, ~~and every such contract must, before execution thereof, be assented to by a majority of the qualified electors of the City, voting upon the proposition at a general or special election, at which such proposition shall be submitted.~~

- (98) To sue and be sued in the name of the Commission, and to exercise complete control over all litigation wherein it is involved, or which pertains to any matters within the jurisdiction of the Commission; provided, however, that the City Attorney shall represent the Commission in all matters to which it is a party and shall be the sole and exclusive legal adviser of the Commission with reference to any of its functions, powers or duties under this Charter.
- (109) To sell or cause to be sold from time to time such personal property belonging to the Water-Public Utilities Department as shall be no longer necessary or suitable for the use of the Public Utilities ~~de~~Department.
- (110) To lease, sell or dispose of any property, or any interest therein, belonging to the Water-Public Utilities Department whenever in judgment of the Commission ~~said such~~ property, or any interest therein, or part thereof, is no longer required for the purposes of the Water-Public Utilities Department; ~~said such~~ property may be leased for any purpose which does not interfere with the use of the same for the purpose of the Water-Public Utilities Department. Any compensation received from the sale or lease of ~~said such~~ property shall be paid into the Water Revenue Fund, the Gas Fund or such other fund of the Water-Public Utilities Department as may be designated by the Commission, and shall be used for the purposes of the Water-Public Utilities Department; provided, however, that except as otherwise provided in this Article, nothing herein shall authorize the Commission to sell, lease or dispose of any water rights, reservoir space or storage capacity, or any interest or space therein. Provided, further, the Commission shall not have authority to make any lease, contract or other agreement providing for the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas or other hydrocarbon substances from, under, across or through any land under the control and jurisdiction of the Commission, and any such lease, contract or other agreement shall be made upon authorization of the City Council. The City

Manager and City Council shall have jurisdiction of revenue derived from the development and production of oil and gas on lands under the management and control of the Commission.

- (124) To purchase supplies and equipment that may be necessary or convenient to the use of the Water-Public Utilities Department.
- (132) To make contracts in the name of the Commission to carry into effect the powers granted the Commission in this Charter; provided, that all contracts wherein the expenditure of funds of the Water-Public Utilities Department exceeds the amount established by ~~ordinance of~~ the City Council for City departments, except contracts for labor, materials or supplies for actual emergency work, shall be made and entered into upon competitive bidding as provided in this Charter, and all powers and duties therein conferred or imposed upon the City Council and/or City Manager are hereby conferred and imposed upon the Commission. At the time of publication of notice inviting bids, specifications of the supplies or materials required, or the plans and specifications of the work to be done, must be on file in the office of the Commission, subject to public inspection. Except as provided in this Charter, all supplies and/or materials, not required to be obtained upon competitive bidding, or for actual emergency work, shall be procured for the Commission by the City Purchasing Agent or City Procurement Service Officers, in accordance with procedures prescribed therefor by the City Manager as shall not be in conflict with this Charter or other applicable law.
- (143) To expend all money received in connection with the operation of the Water-Public Utilities Department or management of properties under the control of the Commission; provided that all such monies shall be deposited in the City Treasury to the credit of funds to be known as the "Gas Fund", the "Water Revenue-Fund", the "Sewer Revenue-Fund" or to the credit of such other funds as the Commission may by resolution establish. Any interest or increment received on the money in such fund or funds shall be paid into such fund or funds and become a part thereof; and the monies deposited in such fund or funds shall be kept separate and apart from other money of the City and, except as may be allowed by other provisions of this Charter, shall be expended only for the purposes for which ~~said-such~~ fund was established. The Commission shall file with the City Auditor a notice giving the names and signatures of persons, designated by the Commission to sign demands and payroll authentication.

The City Manager and City Council shall have jurisdiction of revenue derived from the development and production of oil and gas on lands under the management and control of the Commission.

- (154) To supervise, control, regulate, construct, operate, maintain, extend and manage such other facilities, works and property as may be delegated or conferred upon the Commission by the City Council consistent with the provisions of this Charter.

(165) To delegate to the General Manager such powers and duties as the Commission deems appropriate.

Sec. 1404. - DEMANDS AGAINST WATER-PUBLIC UTILITIES DEPARTMENT FUNDS.

The City Auditor shall approve no demand against any fund under the control of the Commission, excepting redemption of bonds and interest coupons, unless the same shall be signed and authenticated as hereinabove provided, and by means of checks or warrants on the City Treasurer issued by the City Auditor. If the City Auditor, upon examination, believes that any demand is not a proper claim against any fund under the control of the Commission, ~~he the City Auditor~~ shall immediately return ~~said-such~~ demand to the Commission with ~~his~~ objections endorsed thereon. Such demand shall again be considered by the Commission, and if it shall again be allowed by the Commission, and ~~said-such~~ allowance over the objection of the City Auditor be certified by the signatures of the president or vice president and the secretary of the Commission, the ~~said~~-objection of the City Auditor shall be thereby overruled. Any demand upon which the objections of the City Auditor have been overruled by the Commission shall be again returned to the City Auditor, who shall issue a check or warrant upon the City Treasurer for the same in like manner as if it had been approved by the City Auditor.

Sec. 1405. - ANNUAL BUDGET.

~~The~~ Commission shall, prior to the first day of ~~June of each calendar~~ the last month of the fiscal year, adopt a departmental budget for the forthcoming fiscal year covering the anticipated revenue and expenditures of the Water-Public Utilities Department. Such departmental budget shall conform, as far as practicable, to the form provided in this Charter for the general City budget. Each such budget shall contain a sum to be known as the "Unappropriated Balance", which sum shall be available for appropriation by the Commission, by resolution, in the ensuing fiscal year to meet contingencies as they may arise. A copy of every resolution making an appropriation from ~~said-such~~ unappropriated balance shall promptly be filed with the City Auditor and City Manager. Two certified copies of ~~said-such~~ budget shall forthwith, after adoption by the Commission be filed with the City Clerk for presentation to the City Council and one certified copy shall forthwith be filed with the City Auditor. Such budget shall be subject to the approval of the City Council as in this section provided. The City Council shall, not later than the first day of ~~July the new fiscal year of each calendar year~~, approve such budget adopted by the Commission or shall amend ~~said-such~~ budget and approve the same as amended not later than the first day of ~~July of each calendar year~~ the new fiscal year. In the event the City Council shall not approve ~~said-such~~ budget or amend the same and adopt ~~said-such~~ budget as amended on or before ~~said the~~ first day of ~~July~~ the new fiscal year, the same shall become effective as the official budget of the Water-Public Utilities Department for the forthcoming fiscal year. In the event the City Council shall amend ~~said-such~~ budget and approve the same as amended, as above provided, a certified copy of ~~said-such~~ approved budget as amended shall be filed with the Commission and the City Auditor. No expenditure shall be made or financial obligation incurred by the Commission, its officers or employees,

except as authorized by ~~said-such~~ annual departmental budget or appropriations made subsequent to ~~said-such~~ annual budget as herein provided. ~~Said-Such~~ annual departmental budget, when effective, shall constitute an appropriation covering the anticipated revenues and expenditures of the Water-Public Utilities Department as therein set forth.

Sec. 1406. - DESIGNATION OF ALTERNATES.

Whenever provision is herein made for the discharge of specific duties by a specified appointee, the Commission may designate an employee in ~~said-the Public Utilities~~ Department with full power to act in place of such appointee in case of such appointee's absence or inability to act.

Sec. 1407. - USE OF WATER-PUBLIC UTILITIES DEPARTMENT FUNDS.

None of the money in or belonging to the Gas Fund, the Water Revenue-Fund, the Sewer Revenue-Fund or such other funds as are established by the Commission, shall be appropriated or used for any purpose except for the purposes for which ~~said-such~~ fund was established, as follows:

- (1) For the necessary expense of operating and maintaining ~~the-gas facilities,~~ water works and the sewer system, and for such ~~preliminary~~ surveys, reconnaissances, options, estimates, engineering data, experimentation and investigation, as in the discretion of the Commission shall be necessary, or as shall be incidental to the extension or betterment of the physical properties, or the business of the Public Utilities Department and/or the acquisition of additional lands, gas, water, water rights and/or other property.
- (2) For the payment of the principal and interest, or either, due or coming due upon outstanding notes, certificates or other evidences of indebtedness issued against revenues from ~~said-gas facilities,~~ water works and/or the sewer system in accordance with this Charter, or bonds or other evidences of indebtedness heretofore or hereafter issued for the purpose of ~~such-gas facilities,~~ water works and/or the sewer system, or parts thereof.
- (3) For the necessary expense of conducting and extending the business of the Public Utilities Department, and constructing, extending and improving gas facilities, such water works and the sewer system, including purchases of lands, gas, water, water rights, and other property; ~~also the necessary expenses of conducting and extending the business of the Water Department.~~
- (4) To return and pay into the general fund of the City, from time to time, upon resolution of the Commission, from any surplus money in the Gas Fund, the Water Revenue-Fund, the Sewer Fund, or other funds established as aforesaid, any sums paid by the City from funds raised by taxation or the payment of the principal or

interest of any municipal bonds issued by the City for and on account of gas facilities, the water works or the sewer system.

- (5) To transfer to the general fund of the City any funds in the Gas Fund, the Water Revenue Fund and/or the Sewer Revenue Fund that are determined by the Commission to be unnecessary to meet the obligations described in subsections (1), (2), (3) or (4) above; provided that the maximum transfer does not exceed twelve percent (12%) of the annual gross revenues of the gas facilities, water works and sewer system, respectively, as shown by a financial report audited by an independent accounting firm, or other applicable limits established by State law.
- (6) All proceeds from transfers authorized by subsection (5) above shall be used to maintain local general fund services as the City Council may by budget adoption or other appropriation direct, including without limitation 9-1-1 response, police/fire protection, street repairs, parks and libraries.
- (7) All proceeds from transfers authorized by subsection (5) above can be spent for unrestricted general revenue purposes.
- (8) The Commission is authorized to fix, and the City Council is authorized to approve, gas, water and sewer rates in an amount sufficient to recover the cost of the obligations described in subsections (1) through (5) above, subject to the limitation concerning gas rates contained in Section 1403(5) of this Charter.

Sec. 1408. - REVOLVING FUND[RESERVED].

~~For the use and benefit of the Water Department or for the use and benefit of that division or branch of the City's service charged with the duty of collecting monies due and payable to the Water Department, the Commission may, by resolution, create and establish a revolving fund, the monies of which shall not be subject to transfer at the close of the fiscal year; and any resolution creating and establishing such a fund shall provide that the City Treasurer shall transfer to such revolving fund from the "Water Revenue Fund", not to exceed Five Thousand Dollars (\$5,000.00); and such revolving fund shall be used for the purpose of making change in connection with collections of the Water Department and for such other purposes as the Commission may prescribe by such resolution.~~

Sec. 1409. - TRUST AND SPECIAL DEPOSIT FUNDS.

The Commission may, by resolution, create and establish such trust and special deposit funds as shall be necessary and convenient for the deposit of monies received by the City or the Water-Public Utilities Department as security for the payment of charges made for gas, water or other commodities furnished or service rendered by ~~said department~~the Public Utilities Department, or for the deposit of monies received by the Water-Public Utilities Department as advance payment in connection with the furnishing of gas, water or other commodity or the rendering of any service by the Water-Public Utilities Department, or deposited with the Water-Public Utilities Department in trust or for any



special purpose in connection with the operation of the Water-Public Utilities Department; and the fund, or funds, created and established under the authority herein contained shall be continuing funds, the monies of which shall not be subject to transfer at the close of a fiscal year, and, anything in this Charter to the contrary notwithstanding, any such resolution may provide that disbursements from any such fund, or funds, may be made for the purpose of the trust or according to the terms and conditions of the special deposit under which the monies in such fund, or funds, were received, without the necessity of demands, vouchers, or warrants drawn on the City Treasurer, and that such disbursements may be made in accordance with such rules and regulations as shall be prescribed in and by any such resolution.

Sec. 1410. - ACQUISITION OR SALE OF REAL PROPERTYACTIONS TAKEN BY COMMISSION.

Any action by the Commission authorizing the acquisition or sale of real property, approval of contracts which obligate the City ~~for a longer period of time than one year~~, or which involves a rule of general application to be followed by the public, shall be taken by the Commission by order or resolution. ~~Every order or resolution adopting a rule of general application to be followed by the public, shall be published once in a daily newspaper of general circulation and shall take effect upon such publication.~~

Sec. 1411. - IMPROVEMENT OF GAS FACILITIES, WATER WORKS AND SEWER SYSTEM.

The Commission shall provide for the cost of extensions and betterments of said-gas facilities, water works and the sewer system, from the funds derived from the sale of bonds, so far as such funds are, or shall be, made available for the use of the Commission for said-such purpose, from income received from the revenue of the Water-Public Utilities Department, and from the proceeds of loans contracted as provided in this Charter.

Sec. 1412. - REPAYMENT OF BONDS.

The Commission shall each year apportion and set apart, out of the revenue funds of the Water-Public Utilities Department, in the City Treasury, an amount sufficient to pay at maturity all sums coming due in said-such year for principal and interest upon all outstanding bonds issued for the gas facilities, water works or the sewer system and said such amount shall be transferred forthwith into a special fund in the City Treasury, to be designated by a name indicating the nature or purpose of such special fund, and the money in such special fund shall be subject to apportionment by the City Auditor as may be required to make such payments of the principal and interest of said-such bonds and for no other purpose. Any interest or increment received on the money in any such special fund shall be paid into such special fund and become a part thereof. The foregoing provisions of this section shall apply to all such bonds now outstanding or hereafter issued; provided, however, that payments out of revenue, as provided, of the principal and interest of general obligation bonds hereafter issued for securing water from new sources, shall be required only to the extent determined by the Commission, approved by

a majority vote of the City Council, prior to the submission to the electors-qualified voters of the City of the proposition of authorizing such general obligation bonds. Such resolutions shall be subject to amendment only by resolution of the Commission, approved by majority vote of the City Council, and assented to by a majority of the electors-qualified voters of the City, voting on the question of approving such resolution at a general or special election at which such questions shall be lawfully submitted.

Notwithstanding all or any part of this section, nothing herein shall be construed as a limitation upon the power of the City or of any department thereof to issue revenue bonds without an election, under State law or procedural ordinance and nothing in this section or elsewhere in this Charter shall be construed to prevent a pledge of revenues to pay, or secure the payment of, the principal and interest of such revenue bonds, which pledge may have priority over any allocation of revenues to pay the principal and interest of general obligation bonds.

#### Sec. 1413. - EMERGENCY LOANS.

The Commission shall have the power, upon determination that an emergency exists which justifies it in so doing, to borrow money upon such terms and conditions, and under such procedure, as may be prescribed by resolution, for the purpose of acquiring, constructing, reconstructing, repairing, extending or improving facilities or works, for supplying the City and its inhabitants with gas, water and sewer service, and to issue notes, certificates, or other evidences of indebtedness therefor, subject to the following provisions:

- (1a) The whole amount of any such indebtedness shall be payable in a period not exceeding five years from the time of contracting the same; provided, that any such indebtedness, or part thereof, made payable after one year from the time of contracting the same, shall be subject to the right of the Commission to pay the same with accrued interest thereon on any interest due date, after said-such one year period.
- (2b) The total outstanding indebtedness incurred under the provisions of this section with respect to the Water Fund, Gas Fund or Sewer Fund, respectively, , for the purpose of the Water Department, must not exceed 33 1/3% of the-such Fund's gross operating revenue from the Water Department during the preceding fiscal year.
- (3e) The rates for gas, water and sewer service shall be so fixed as to provide for payment at maturity of the principal and interest of such indebtedness in addition to all other obligations and liabilities payable out of the revenues of the Water Public Utilities Department.
- (4d) Such indebtedness shall be payable only from the revenue of the Water-Public Utilities Department, and shall not be an obligation of the City.

Sec. 1414. - WATER-PUBLIC UTILITIES DEPARTMENT'S POWER TO ACT AS CONTRACTOR.

The Water Public Utilities Department is empowered to act as contractor for, and do the work embraced in, the construction, reconstruction, extension or installation of gas, water and sewer mains, piping, conduits, tunnels, hydrants, pump stations, and other necessary facilities, works and appliances for the purpose of providing gas, water and sewer service.

ARTICLE XV. – ~~DEPARTMENT OF~~ADDITIONAL PUBLIC UTILITIES  
Sec. 1501. - UTILITY REVENUES.

All revenues received from the operation of each public utility owned and operated by the City and not subject to Article XIV shall be deposited and kept in a separate revenue fund in the name of the utility operation generating the revenue and shall be disbursed therefrom on behalf of each such utility operation in the following order of priority:

(1a) Payment of interest and principal coming due on any bonded indebtedness relating to the utility which generates the revenue in each such specified fund;

(2b) Payment of the annual operating and maintenance expenses, acquisitions, improvements and extensions of the respective utility system;

(3e) Set aside a portion of each fund as a reserve to be used for contingencies in the operation of each such utility;

(4d) The remainder in any of these funds that is determined by the City Manager to be unnecessary to meet the obligations described in subsections (1a), (2b) and (3e) above may be transferred in accordance with applicable State law into the general fund of the City as approved by budget adoption or other appropriation by the City Council; ~~provided that, with respect to the gas utility, the maximum transfer does not exceed twelve percent (12%) of the gas utility's annual gross revenues, as shown by a financial report audited by an independent accounting firm.~~

~~(e) — All proceeds from transfers authorized by subsection (d) above shall be used to maintain local general fund services as the City Council may by budget or other appropriation direct, including without limitation 9-1-1 response, police/fire protection, street repairs, parks and libraries~~

~~(f) — All proceeds from transfers authorized by subsection (d) above can be spent for unrestricted general revenue purposes.~~

~~(g) — The City Council is authorized to fix rates in an amount sufficient to recover the cost of the obligations described in subsections (a) through (d) above, subject to the limitation contained in Section 1502 of this Charter.~~

~~Sec. 1502. – UTILITY RATES.~~

~~The rates to be charged users for any services or commodities supplied by any public utility owned and operated by the City shall be based upon the prevailing rates for similar services and commodities supplied or sold by other like utilities whether public or private, operating in the Southern California area.~~

ARTICLE XVII. – FINANCE

Sec. 1708. – DISPOSITION OF NON-TRUST OIL PROCEEDS.

The net proceeds received by the City from the sale or disposition of oil, gas and other hydrocarbon substances derived from, or allocated or assigned to all lands acquired by the City by purchase, tax deed, exchange, trade or gift, located in the Harbor District of the City, other than lands which were purchased or acquired, in whole or in part, by use of tideland trust monies, to the extent provided in Chapter 138, Statutes of 1964, First Extraordinary Session, and other than tide and submerged lands which were acquired by the City by grant from the State of California pursuant to the provisions of Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, and Chapter 158, Statutes of 1935, together with all money derived from cash bonuses paid by oil companies or individuals for oil leases on said lands, other than any tideland-trust-money-acquired lands or said tide and submerged lands (including all money paid for permits for drilling oil wells or for the erection of oil well derricks or other buildings in connection with oil development, and irrespective of whether or not such wells, derricks or buildings are located on any tideland-trust-money-acquired lands or on said tide and submerged lands) shall be paid into the General Bond Redemption and Interest Fund, which fund has been heretofore created and established and is hereby continued, so long as any such money shall be required for payment of any unpaid principal or interest on any and all outstanding general obligation bonds of the City other than those issued for Harbor, ~~Water or Gas or Public Utilities~~ Department purposes, regardless of when such principal or interest shall be due and payable.

(b) The net proceeds received by the City from the sale or disposition of oil, gas or other hydrocarbon substances derived from, or allocated or assigned to all lands belonging to the City and located outside the Harbor District, other than lands classified as tideland-trust-money-acquired lands or tide and submerged lands, as referred to in subsection (a) above, shall likewise be paid into the General Bond Redemption and Interest Fund so long as any such money shall be required for payment of any unpaid principal or interest on any and all outstanding general obligation bonds of the City other than those issued for Harbor, ~~Water or Gas or Public Utilities~~ Department purposes regardless of when such principal or interest shall be due or payable.

Sec. 1725. - SHORT-TERM REVENUE CERTIFICATES.

(a) In addition to the powers conferred by this Charter, the City Council and, with the prior approval of the City Council, the Board of Harbor Commissioners and the Board of ~~Water-Public Utilities~~ Commissioners shall have the power to borrow money and incur indebtedness from time to time for any of the purposes for which it can issue bonds or notes pursuant to this Charter, City ordinances, applicable provisions of the Constitution

of the State of California, or general State and Federal laws relating to municipalities. Such indebtedness shall be evidenced by revenue certificates issued in the manner and subject to the limitations hereinafter set forth in this section.

(1) Certificates issued by the City Council, the Board of Harbor Commissioners or the Board of Water-Public Utilities Commissioners pursuant to this section may be negotiable or non-negotiable, may be sold at public or private sale, at par or at a discount, at such interest rate or rates, as the City Council or Board of Harbor Commissioners or Board of Water-Public Utilities Commissioners may determine and all certificates shall be, and shall recite upon their face that they are, payable both as to principal and interest out of the revenue fund pertaining to the revenue fund on account of which the indebtedness evidenced by such certificates was created and not out of any other fund or moneys of the City or the Harbor or Water-Public Utilities Departments. Such recital, however, shall not preclude payment from the proceeds of sale of other certificates issued pursuant to this section or from amounts drawn on bank lines of credit pursuant to subsection (b) of this section or from any other lawfully available source of funds.

(2) In order to exercise the power to borrow money pursuant to this section, the City Council, the Board of Harbor Commissioners or the Board of Water-Public Utilities Commissioners shall adopt a resolution authorizing the sale and issuance of certificates for such purpose. In the case of revenue certificates to be issued by the Board of Harbor Commissioners or the Board of Water-Public Utilities Commissioners, the prior approval of the City Council shall be expressed by resolution.

(b) The City Council or respective Board of Commissioners may arrange for bank credit for the purpose of providing an additional source of repayment for indebtedness incurred under this section. Amounts drawn on available bank lines of credit may be evidenced by negotiable or non-negotiable promissory notes or other evidence of indebtedness; provided, however, that any such notes or other evidence of indebtedness shall recite upon their face that they are payable, both as to principal and interest, out of funds pertaining to the revenue fund on account of which the indebtedness was created and not out of any other fund or moneys of the City or the Harbor or Water-Public Utilities Departments.

## ARTICLE XVIII. - CONTRACTS

### Section 1800. - FORM AND EXECUTION.

The City shall not be and is not bound by any contract, except as otherwise provided herein, unless the same is made in writing, by order of the City Council, and signed by the City Manager or by another officer authorized to do so by the City Manager. The approval of the form of the contract by the City Attorney shall be endorsed thereon before the same shall be signed on behalf of the City. The City Council, by ordinance duly adopted, may authorize the City Manager, or any commission or agent of the City, with the written approval of the City Manager, to bind the City without a contract in writing for the payment of services, supplies, materials, equipment and labor or other valuable consideration furnished to the City in an amount not exceeding the limit established by ordinance of the City Council. The Board of Harbor Commissioners and the Board of Water-Public Utilities Commissioners may authorize contracts, in writing or otherwise, without advertising for bids, for the payment of services, supplies, materials, equipment and labor or other valuable consideration furnished to the City in an amount not exceeding the limit established by ordinance of the City Council.

### Sec. 1802. - CONTRACTS OF OTHER GOVERNMENTAL AGENCIES.

The requirements of Sections 1800 and 1801 of this Charter shall not apply to purchases by the City and/or the Harbor Department and Water-Public Utilities Department made on behalf of the City from any governmental body, officer or agency.

The City, the Board of Harbor Commissioners and Board of Water-Public Utilities Commissioners may participate in joint and cooperative purchasing of services, supplies, materials, equipment and labor with other cities, counties, districts, State and Federal governments or other governmental agencies, singly, jointly, or in districts or associations, by purchasing under their contracts on a voluntary and selective basis when authorized by a resolution of the City Council, Board of Harbor Commissioners or Water-Public Utilities Commissioners, respectively. Such purchasing shall be in accordance with enabling legislation under Federal and State statutes and revisions, amendments, executive orders, and rules and regulations pertaining thereto.

### Sec. 1807. - NEGOTIATED CONTRACTS—ELECTRONIC DATA PROCESSING AND TELECOMMUNICATIONS EQUIPMENT.

Notwithstanding any other provision of this Charter relating to formal bidding requirements:

The City Council, the Board of Harbor Commissioners, and the Board of Water-Public Utilities Commissioners may authorize and award negotiated contracts which are based

on competitive proposals instead of sealed bids, for the acquisition of electronic data processing and telecommunication equipment, systems, subsystems and related materials, goods and services, in accordance with procedures and criteria which may be established for such negotiated contracts by the City Council by ordinance.



ARTICLE XX. - INITIATIVE, REFERENDUM AND RECALL

Sec. 2001. - PROPOSITIONS PROPOSED BY CITY COUNCIL.

The City Council may on its own motion or at the request of the Board of Harbor Commissioners or the Board of ~~Water~~Public Utilities Commissions submit to the voters of the City any proposed ordinance, order or resolution, legislative, administrative or executive, that the City Council of such Commission might adopt. If a majority of those voting on such proposed ordinance, order or resolution vote in favor of the same, it shall be deemed to be adopted upon a declaration of the result of such election by the City Council. In the case of an ordinance it shall take effect ten (10) days after that date and have the same force and effect as an ordinance adopted under the provisions of the Elections Code of the State of California.