



OFFICE OF THE CITY ATTORNEY

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R-18

CHARLES PARKIN
City Attorney

GARY J. ANDERSON
Assistant City Attorney

August 9, 2022

DAWN A. MCINTOSH
Assistant City Attorney

HONORABLE MAYOR AND CITY COUNCIL

City of Long Beach
California

RECOMMENDATION:

Recommendation to adopt resolution requesting the Registrar-Recorder/County Clerk to call, provide and give notice of a General Municipal Election to be consolidated with the Statewide General Election to be held in the City of Long Beach on Tuesday, November 8, 2022 and include the proposed Charter amendment to a vote of the qualified electors of the City to align the City's primary election date with the State's primary and general election dates held in even-numbered years; 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. (Citywide)

DISCUSSION

The City Council and the Charter Amendment Committee concluded two joint public hearings to discuss a proposed Charter Amendment that would align the City's primary election date with the State's primary and general election dates held in even-numbered years. The meetings were held on June 14, 2022 and July 19, 2022, respectively; and a third and final public meeting was noticed for August 9, 2022.

This third meeting fulfills the requirements in City Charter §1903 and California Government Code §34458 for placing a City Charter amendment on the November 8, 2022 ballot for voter for consideration.

Upon meeting the requirements of City Charter §1903 and California Government Code §34458, it recommended the proposed Charter Amendment to align the City's primary election date with the State's primary and general election dates held in even-numbered years be placed on the November 8, 2022 ballot. This action requires the City Council to adopt a resolution that:

- Requests the Registrar-Recorder/County Clerk to call, provide and give notice of a General Municipal Election to be consolidated with the Statewide General Election to be held in the City of Long Beach on Tuesday, November 8, 2022 and include the proposed Charter amendment to a vote of the qualified electors of the City relating to align the

HONORABLE MAYOR AND CITY COUNCIL

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City's primary election date with the State's primary and general election dates held in even-numbered years; and

- Directs the City Attorney to prepare an impartial analysis of the Charter amendment;
- Provides for the filing of primary and rebuttal arguments; and
- Sets rules for the filing of written arguments regarding a proposed Charter amendment to be submitted at said election.

A copy of resolution described above, inclusive of the text of the proposed Charter Amendment, is attached (Attachment A).

SUGGESTED ACTION:

Approve recommendations.

Very truly yours,

CHARLES PARKIN, City Attorney

By



Taylor M. Anderson
Deputy City Attorney

Attachment: A – Resolution necessary to place the measure on the November 8, 2022 ballot

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN City Attorney
411 West Ocean Boulevard, 9th Floor
Lona Beach, CA 90802-4664

1 RESOLUTION NO.
2

3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH ORDERING, CALLING AND
5 PROVIDING FOR AND GIVING NOTICE OF A GENERAL
6 MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE
7 STATEWIDE GENERAL ELECTION TO BE HELD IN THE
8 CITY OF LONG BEACH ON TUESDAY, NOVEMBER 8,
9 2022, FOR THE PURPOSE OF SUBMITTING A CHARTER
10 AMENDMENT BALLOT PROPOSITION TO A VOTE OF THE
11 QUALIFIED ELECTORS OF THE CITY; DIRECTING THE
12 CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS
13 OF THE CHARTER AMENDMENT; AND PROVIDING FOR
14 THE FILING OF PRIMARY AND REBUTTAL ARGUMENTS
15 AND SETTING RULES FOR THE FILING OF WRITTEN
16 ARGUMENTS REGARDING A CITY MEASURE TO BE
17 SUBMITTED AT SAID ELECTION
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19 WHEREAS, the City of Long Beach, California ("City") is a municipal
20 corporation and charter city, duly organized under the Constitution and laws of the State of
21 California; and

22 WHEREAS, the California Voter Participation Rights Act (SB 415, codified as
23 Elections Code §§ 14050-14057), effective January 1, 2018, was enacted to prohibit a
24 public agency, including a charter city, from holding its regular election on any date other
25 than a statewide election date if holding the election on a non-statewide election date
26 results in a "significant decrease in voter turnout," as defined in SB 415; and

27 WHEREAS, in 2017 the California Attorney General opined that SB 415
28 prevails over conflicting Charter provisions, and therefore that SB 415 applied to charter

1 cities such as Long Beach; and

2 WHEREAS, the City formerly held its primary municipal election on the
3 second Tuesday in April in even-numbered years, and its general municipal election on the
4 first Tuesday after the first Monday in June in even-numbered years; and

5 WHEREAS, the City's primary municipal election date was not a statewide
6 election date and showed a "significant decrease in voter turnout" as defined in SB 415;
7 and

8 WHEREAS, in order to comply with SB 415, the City adopted a plan in 2017
9 to align its municipal election dates with the State of California's statewide primary and
10 general election dates and thereafter conducted its elections in coordination with the State
11 and Los Angeles County, experiencing a significant increase in voter turnout, especially
12 among low-propensity voters: a seventy percent (70%) increase in the November 2020
13 election over the November 2016 election; and

14 WHEREAS, in November 2020, the California Supreme Court denied review
15 in the case of City of Redondo Beach v. Padilla, 46 Cal. App. 5th 902 (2020), letting stand
16 a decision that charter cities were not subject to SB 415's requirements; and

17 WHEREAS, pursuant to authority provided by California Constitution, Article
18 XI Section 3, Long Beach City Charter Section 1903, California Government Code Sections
19 34450 et. seq. and California Elections Code Sections 1415 and 9255 et. seq., the City
20 Council of the City of Long Beach desires to submit to the voters a proposed charter
21 amendment aligning the municipal primary and general election dates with those of the
22 State of California, and making other related and technical changes to City election
23 procedures ("Charter Amendment"); and

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

27 WHEREAS, pursuant to California Government Code Section 34458(b), the
28 City Council held a duly noticed public hearing on June 14, 2022 and a second duly noticed

1 public hearing on July 19, 2022 to hear public comment and testimony and to consider the
2 Charter Amendment, with the first public hearing being held at 5:00 p.m., outside normal
3 City business hours; and

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

7 WHEREAS, pursuant to California Elections Code sections 1415 and 9255,
8 the City Council is authorized by statute to submit the proposed Charter Amendment to the
9 voters at the General Municipal Election to be held on November 8, 2022; and

10 WHEREAS, the City Council desires to consolidate the General Municipal
11 Election for the Charter Amendment described herein with the Statewide General Election
12 to be held on November 8, 2022; and

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

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

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

19 Section 2. That pursuant to the provisions of California Constitution, Art.
20 XI, Section 3, Long Beach City Charter section 1903, California Government Code,
21 Sections 34450 et. seq., and California Elections Code, Sections 1415 and 9255 et. seq.,
22 and any other applicable requirements of the laws of the State of California relating to
23 charter cities, the City Council hereby calls and orders to be held a General Municipal
24 Election in the City of Long Beach to be consolidated with the Statewide General Election
25 on Tuesday, the 8th day of November, 2022, for the purpose of submitting to a vote of the
26 qualified electors of the City of Long Beach the following proposed Charter amendment
27 which, for identification purposes only, is marked as Proposition ____.

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Realign City and State Election Dates. Shall the City Charter of Long Beach be amended to realign the City's primary and general election dates with the State's primary and general election dates held in even-numbered years, and make other related and technical changes to City election procedures?	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. Election Procedures.

A. Request for Consolidation. Pursuant to the requirements of §10403 of the Elections Code, the Board of Supervisors of the County of Los Angeles is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 8, 2022, for the purpose of submitting to the voters the Charter Amendment.

B. Necessary Steps. The Board of Supervisors is requested to issue instructions to the Los Angeles County Registrar of Voters/Elections Official to take any and all steps necessary for the holding of the consolidated election.

C. Canvass of Returns. The Los Angeles County Registrar of Voters/Elections Official is authorized to canvass the returns and perform all other proceedings incidental to and connected with the General Municipal Election for the Charter Amendment. The Election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. Pursuant to California Elections Code Sections 10403 and 10418, the election will be held and conducted in accordance with the provisions of law regulating the Statewide General Election.

D. Costs. The City Council determines and declares that the City will pay to the County the reasonable and actual expenses incurred by the County by the consolidation of the General Municipal Election with the Statewide General

1 Election. The City shall reimburse the County for services performed when the work
2 is completed and upon presentation to the City of a properly approved bill.

3 E. Form of Ballot. The ballots to be used at the election shall be
4 in the form and content as required by law.

5 F. City Clerk Authorized to Coordinate with County. The City
6 Clerk is authorized, instructed and directed, in coordination with the Los Angeles
7 County Registrar of Voters/Elections Official, to procure and furnish any and all
8 official ballots, notices, printed matter and all supplies, equipment and paraphernalia
9 that may be necessary in order to properly and lawfully conduct the election.

10 G. Opening and Operation of Polls, Vote Centers, Etc. The polls,
11 vote centers and/or vote-by-mail drop-off boxes shall be open and the procedures
12 for submitting votes-by-mail or votes at polls and vote centers shall be in accordance
13 with those times and procedures established by the County of Los Angeles, except
14 as otherwise provided in the Elections Code of the State of California.

15 H. Notice of Election. Notice of the time and place of holding the
16 election is given and the City Clerk is authorized, instructed and directed to give
17 further or additional notice of the election, in time, form, and manner as required by
18 law.

19 I. Tallying of Ballots. All ballots shall be tallied at a central
20 counting place and not at the precincts. Said central counting place shall be at a
21 County center as designated by the Registrar of Voters.

22 J. Receipt of Election Results. The City Clerk of the City of Long
23 Beach shall receive the canvass as it pertains to the election on the Charter
24 Amendment measure, and shall certify the results to the City Council, as required
25 by law.

26 Section 6. That pursuant to California Elections Code Section 9280 and
27 Long Beach Municipal Code Section 1.24.100, the City Council hereby directs the City
28 Clerk to transmit a copy of the Charter Amendment to the City Attorney. The City Attorney

1 shall prepare an impartial analysis of the Charter Amendment, not to exceed 500 words in
2 length, showing the effect of the Charter Amendment on the existing law and the operation
3 of the Charter Amendment, and transmit such impartial analysis to the City Clerk not later
4 than the deadline for submittal of primary arguments for or against the Charter Amendment.

5 The impartial analysis shall include a statement indicating whether the
6 Charter Amendment was placed on the ballot by a petition signed by the requisite number
7 of voters or by the City Council. In the event the entire text of the Charter Amendment is
8 not printed on the ballot, nor in the voter information portion of the sample ballot, there shall
9 be printed immediately below the impartial analysis, in no less than 10-font bold type, the
10 following: **“The above statement is an impartial analysis of Ordinance or Measure**
11 **“ ____ ”. If you desire a copy of the ordinance or measure, please call the Office of**
12 **the City Clerk at 562-570-6101 and a copy will be mailed at no cost to you.”**

13 Section 7. Primary Arguments. That the City Council authorizes (i) the
14 City Council or any member(s) of the City Council, (ii) any individual voter eligible to vote
15 on the above measure, (iii) a bona fide association of such citizens or (iv) any combination
16 of voters and associations, to file a written argument in favor of or against the City measure,
17 accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in
18 accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of
19 California, and to change the argument until and including the date fixed below by the City
20 Clerk, after which no arguments for or against the City measure may be submitted to the
21 City Clerk.

22 Section 8. Pursuant to Long Beach Municipal Code Section 1.24.020, the
23 Mayor, with the approval of the City Council, may designate a person, or association of
24 persons, to write arguments either for or against or both for and against the adoption of
25 any measure or proposition placed on the ballot.

26 Section 9. The deadline to submit arguments for or against the City
27 Measure pursuant to this Resolution is declared by the City Clerk to be Friday, August 19,
28 2022, at 5:00 p.m. Each argument shall not exceed three hundred (300) words and shall

1 be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the
2 author(s) submitting it, or if submitted on behalf of an organization, the name of the
3 organization, and the printed name and signature of at least one of its principal officers
4 who is the author of the argument.

5 Section 10. Rebuttal Arguments. Pursuant to Section 9285 of the Elections
6 Code of the State of California, when the City Clerk has selected the primary arguments
7 for and against the City Measure which will be printed and distributed to the voters, the
8 Clerk shall send copies of the primary argument in favor of the Measure to the authors of
9 the primary argument against, and copies of the primary argument against to the authors
10 of the primary argument in favor. The authors or persons designated by them may prepare
11 and submit rebuttal arguments not exceeding two hundred fifty (250) words. The rebuttal
12 arguments shall be filed with the City Clerk not later than Tuesday, August 29, 2022 at 5:00
13 p.m. Rebuttal arguments shall be printed in the same manner as the primary arguments.
14 Each rebuttal argument shall immediately follow the primary argument which it seeks to
15 rebut. That notice of the time and place of holding the election is hereby given and the City
16 Clerk is authorized, instructed and directed to give further or additional notice of the
17 election, in time, form and manner as required by law.

18 Section 11. The full text of the Charter Amendment shall not be printed in
19 the voter information guide, but a statement shall be printed in the ballot pursuant to Section
20 9223 of the Elections Code advising voters that they may obtain a copy of this Charter
21 Amendment/Measure, at no cost, upon request made to the City Clerk.

22 Section 12. Pursuant to Elections Code section 9295, this Measure will be
23 available for public examination for no fewer than ten (10) calendar days prior to being
24 submitted for printing in the voter information guide. The City Clerk shall post notice in the
25 Clerk's office of the specific dates that the examination period will run.

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

28 Section 14. The City Treasurer is hereby authorized and directed to

1 appropriate the necessary funds to pay for the City's cost of placing the Charter
2 Amendment on the election ballot.

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

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

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

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I hereby certify that the foregoing resolution was adopted by the City Council
of the City of Long Beach at its meeting of _____, 2022 by the
following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

EXHIBIT "A"

Text of Charter Amendment

[attached behind this page]

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN City Attorney
411 West Ocean Boulevard, 9th Floor
Lana Beach, CA 90802-4664

MEASURE “ ___ ”

THE PEOPLE OF THE CITY OF LONG BEACH DO HEREBY AMEND THE LONG BEACH CITY CHARTER AS FOLLOWS:

SECTION 1. Text of Charter Amendment. Subject to the approval of a majority of the voters of the City of Long Beach at the scheduled election so designated by City Council resolution placing the proposal on the ballot for such election, Section 1901 of the Long Beach City Charter is hereby amended to read as follows:

“ARTICLE XIX – NOMINATIONS AND ELECTIONS

SEC 1901 – PRIMARY AND GENERAL MUNICIPAL ELECTIONS

The primary and general municipal elections for elective officers of the City shall be held on the same dates established for the statewide primary and general elections, respectively, by California Election Code section 1000 et seq. for even numbered years, and candidates elected to office shall assume such office on the third Tuesday in December, or such later date if additional time is required to canvass and certify election results and shall serve until election and qualification of their successors.

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 documents:

- 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 et. seq.
- 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 Municipal Election of November 8, 2022. 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 8, 2022.

ROBERT GARCIA
Mayor of the City of Long Beach

Attest:

Monique De La Garza
City Clerk

Approved as to form:

Charles Parkin
City Attorney