



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 establishment of Public Utilities Department; 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 Utility Consolidation Measure. This third public meeting fulfills the requirements of City Charter §1903 and California Government Code §34458.

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

FISCAL IMPACT:

No fiscal impact.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert Garcia".

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

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

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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 Article XIV currently sets forth the powers, duties and governance of the Long Beach Water Department; and

WHEREAS, the City of Long Beach could realize considerable efficiencies by consolidating the operations of the Long Beach Water Department with other City utilities which have duplicative costs for administration, staffing and equipment; and

WHEREAS, consolidation of City utilities would also have the benefit of consistent rule-making and rate-setting by making City utilities subject to a single consistent governing body; 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

1 of Long Beach desires to submit to the voters a proposed charter amendment to
2 consolidate the existing gas, water and sewer utilities and potentially other future City-
3 operated utilities into a single utility department overseen by a five-member Public
4 Utilities Commission, the members of which shall be appointed by the Mayor, subject to
5 Council confirmation, subject to the terms and conditions set forth therein ("Charter
6 Amendment"); and

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

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

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

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

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

22 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
23 follows:

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

26 Section 2. That pursuant to the provisions of California Constitution, Art.
27 XI, Section 3, Long Beach City Charter section 1903, California Government Code,
28 Sections 34450 et. seq., and California Elections Code, Sections 9255 et. seq., and any

1 other applicable requirements of the laws of the State of California relating to charter
2 cities, the City Council, by a majority vote, hereby calls and orders to be held a Special
3 Municipal Election in the City of Long Beach between the hours of 7:00 a.m. and 8:00
4 p.m. on Tuesday, the 6th day of November, 2018, for the purpose of submitting to a vote
5 of the qualified electors of the City of Long Beach the following proposed Charter
6 Amendment.

"Long Beach Utility Consolidation. Shall the City Charter be amended to consolidate the existing gas, water and sewer utilities and potentially other future City-operated utilities into a single utility department overseen by a five-member Public Utilities Commission, the members of which shall be appointed by the Mayor, subject to Council confirmation?"	YES
	NO

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

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

16 Section 5. That pursuant to California Elections Code Section 9280 and
17 Long Beach Municipal Code Section 1.24.100, the City Council hereby directs the City
18 Clerk to transmit a copy of the Charter Amendment to the City Attorney. The City
19 Attorney shall prepare an impartial analysis of the Charter Amendment, not to exceed
20 500 words in length, showing the effect of the Charter Amendment on the existing law
21 and the operation of the Charter Amendment, and transmit such impartial analysis to the
22 City Clerk not later than the deadline for submittal of primary arguments for or against the
23 Charter Amendment.

24 The impartial analysis shall include a statement indicating whether the
25 Charter Amendment was placed on the ballot by a petition signed by the requisite
26 number of voters or by the City Council. In the event the entire text of the Charter
27 Amendment is not printed on the ballot, nor in the voter information portion of the sample
28

1 ballot, there shall be printed immediately below the impartial analysis, in no less than 10-
2 font bold type, the following: **“The above statement is an impartial analysis of**
3 **Ordinance or Measure “_____”.** **If you desire a copy of the ordinance or measure,**
4 **please call the Office of the City Clerk at [insert phone number] and a copy will be**
5 **mailed at no cost to you.”**

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

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

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

27 Section 9. Rebuttal Arguments. Pursuant to Section 9285 of the
28 Elections Code of the State of California, when the City Clerk has selected the primary

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

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

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

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

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

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

26 Section 15. The City Council finds that this Resolution is not subject to the
27 California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the
28 activity will not result in a direct or reasonably foreseeable indirect physical change in the

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1 environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378)
2 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it
3 has no potential for resulting in physical change to the environment, directly or indirectly.

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

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

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

13
14 Ayes: Councilmembers: _____

15 _____

16 _____

17 _____

18 Noes: Councilmembers: _____

19 _____

20 Absent: Councilmembers: _____

21 _____

22 _____

23 _____

24 _____
City Clerk

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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 THE FOLLOWING ARTICLE ___ TO THE CITY CHARTER:

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-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, tThe 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 ~~ordinance~~ resolution, 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 ~~ordinance~~ resolution, 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 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 dDepartment 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.
- (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 departmentthe 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.~~

~~(g5) 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.

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