

RESOLUTION NO. RES-18-0025

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH, CALLING FOR THE HOLDING OF
A GENERAL MUNICIPAL ELECTION ON TUESDAY JUNE
5, 2018 FOR THE SUBMISSION OF A PROPOSED
CHARTER AMENDMENT TO LONG BEACH VOTERS AND
DIRECTING THE CITY ATTORNEY TO PREPARE AN
IMPARTIAL ANALYSIS OF THE CHARTER AMENDMENT

WHEREAS, Long Beach City Charter, Sections 1407 and 1501 currently
authorize the City Council or the Board of Water Commissioners to transfer revenue from
City utility accounts to the City's General Fund if the revenue is not required to pay for a
utility's capital improvements, bond/debt service, operations and maintenance, personnel,
reserves, and other costs; and

WHEREAS, pursuant to this Charter authority, the City has, for many years,
approved annual transfers of surplus water, sewer and gas utility revenue to the General
Fund; and

WHEREAS, for FY 2016-2017, revenue transfers from the water, sewer and
gas utilities to the General Fund amounted to approximately \$21,000,000; and

WHEREAS, these revenue transfers from City utility accounts to the
General Fund are used to pay for important general City services, including 9-1-1
response, police/fire protection, street repairs, parks and libraries; and

WHEREAS, some have alleged that under California Propositions 218 and
26 (California Constitution, Article XIII C, Section 1(e) and Article XIIID, Section 6), these
revenue transfers from City utility accounts to the General Fund are general taxes
requiring voter approval; and

WHEREAS, pursuant to authority provided by California Constitution, Article

XI, Long Beach City Charter Section 1903, California Government Code Sections 34450 et. seq. and California Elections Code Sections 9255 et. seq., the City Council of the City of Long Beach desires to submit to the voters a proposed charter amendment authorizing and affirming the transfers of certain revenues from City utility accounts to the General Fund, subject to the terms and conditions set forth therein ("Charter Amendment"); and

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

WHEREAS, Proposition 218 (California Constitution, Article XIIC, Section 2) likewise requires that all general taxes which are imposed, extended or increased be approved by a majority of City voters voting at an election called for that purpose; and

WHEREAS, pursuant to Proposition 218 any general tax measure submitted to the voters must be held concurrently with a regularly scheduled general election for members of the City Council; and

WHEREAS, the next regularly scheduled general election at which City Council members are to be elected is June 5, 2018; and

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

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

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

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

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

Section 2. That pursuant to the California Constitution, Article XI, Section 3, Long Beach City Charter Section 1903, California Government Code, Sections 34450 et. seq., and California Elections Code, Sections 9255 et. seq., and any other applicable requirements of the laws of the State of California relating to charter cities, the City Council, by a two-thirds (2/3) supermajority vote, hereby calls and orders to be held in the City of Long Beach on Tuesday, June 5, 2018, a General Municipal Election for the purpose of submitting the following proposed Charter Amendment to the voters.

"City of Long Beach Utility Revenue Transfer Charter Amendment. To maintain general City services like 9-1-1 emergency response, police/fire protection, street/pothole repairs, senior services, parks and libraries, shall the City of Long Beach amend its Charter to authorize annual fund transfers from the City's water, sewer and gas utilities to the General Fund not to exceed 12% of utility gross revenues, generating approximately \$25,500,000 annually for unrestricted general revenue purposes, requiring annual independent audits, until ended by voters?"	YES
	NO

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

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

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

1 Charter Amendment.

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

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

14 Section 7. The City Clerk is authorized, instructed and directed to
15 procure and furnish any and all official ballots, notices, printed matter and all supplies,
16 equipment and paraphernalia that may be necessary in order to properly and lawfully
17 conduct the election.

18 Section 8. That the ballots to be used at the election shall be in form and
19 content as required by law.

20 Section 9. That in all particulars not recited in this resolution, the election
21 shall be held and conducted as provided by law for holding municipal elections.

22 Section 10. The City Treasurer is hereby authorized and directed to
23 appropriate the necessary funds to pay for the City's cost of placing the Charter
24 Amendment on the election ballot.

25 Section 11. The City Council finds that this Resolution is not subject to the
26 California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the
27 activity will not result in a direct or reasonably foreseeable indirect physical change in the
28 environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378)

1 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it
2 has no potential for resulting in physical change to the environment, directly or indirectly.

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

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

9 I hereby certify that the foregoing resolution was adopted by the City
10 Council of the City of Long Beach at its meeting of March 7, 2018
11 by the following vote:

12
13 Ayes: Councilmembers: Gonzalez, Pearce, Price, Supernaw,
14 Mungo, Andrews, Uranga, Austin.

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16
17 Noes: Councilmembers: None.

18
19 Absent: Councilmembers: Richardson.

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

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Exhibit "A"
Proposed Charter Amendment
[attached behind this page]

Exhibit A

MEASURE “ ____ ”

SECTION 1. THE PEOPLE OF THE CITY OF LONG BEACH DO HEREBY AMEND THE LONG BEACH CITY CHARTER TO READ AS FOLLOWS:

“Section 1407. - USE OF WATER DEPARTMENT FUNDS.

None of the money in or belonging to 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 fund was established, as follows:

- (1) For the necessary expense of operating and maintaining the 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 department and/or the acquisition of additional lands, 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 water works and sewer system in accordance with this Charter, or bonds or other evidences of indebtedness heretofore or hereafter issued for the purpose of such water works and sewer system, or parts thereof.
- (3) For the necessary expense of constructing, extending and improving such water works and sewer system, including purchases of lands, 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 Water Revenue 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 the water works or sewer system.

(5) ~~To be transferred to the general fund of the City, if and when, in the judgment of~~ *any funds in the Water Revenue Fund and/or the Sewer Revenue Fund that are determined by the Commission such monies are no longer to be unnecessary for the purposes of the Commission 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 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, water and sewer rates in an amount sufficient to recover the cost of the obligations described in subsections (1) through (5) above."*

Section 1501. - UTILITY REVENUES.

All revenues received from the operation of each public utility owned and operated by the City 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:

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

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

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

(d) The remainder in any of these funds *that is* determined by the City Manager to be unnecessary to meet the ~~above~~ obligations

described in subsections (a), (b) and (c) above may be transferred into the general purpose fund of the City as approved in the annual budget 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."

SECTION 2. Ratification of Utility Fund Transfer. Pursuant to Article XIII C, Section 2(b) of the California Constitution, this Charter Amendment is hereby adopted to establish and/or clarify the City's authority to transfer gross revenues earned by the water, sewer and gas utilities to the City's General Fund as specified in Section 1.

SECTION 3. Approval, Filing and Recordation of Charter Amendment. Pursuant to California Government Code Section 34460, if approved by a majority of voters, the Mayor and City Clerk shall certify, authenticate and attest to the passage of this Charter Amendment. The City Clerk shall also (i) record one copy of this Charter Amendment with the Los Angeles County Recorder's Office, (ii) file one copy in the City's archives and (iii) file one copy with the California Secretary of State. Each copy recorded with the County Recorder and filed in the City's archives shall also be filed with the following:

- (a) Certified copies of all publications and notices required of the City by State law in connection with the calling of an election to propose the Charter Amendment.
- (b) Certified copies of any arguments for or against the Charter Amendment that were mailed to voters pursuant to California Elections Code Sections 9281 and 13303.
- (c) A certified abstract of the vote at the election at which the Charter Amendment was approved by the voters.

SECTION 4. Ratification and Effective Date. Pursuant to California Government Code Section 34459, this Charter Amendment shall be deemed ratified if approved by a majority of the eligible voters of the City of Long Beach voting at the General Election of June 5, 2018. However, this Charter Amendment shall not take effect until it has been accepted and filed by the Secretary of State pursuant to Government Code Section 34460.

SECTION 5. 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.

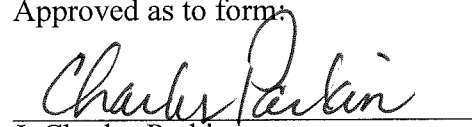
PASSED, APPROVED and ADOPTED by the People of the City of Long Beach at a General Election held on June 5, 2018.


ROBERT GARCIA
Mayor of the City of Long Beach

Attest:


Monique De La Garza
City Clerk

Approved as to form:


J. Charles Parkin
City Attorney